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International Court of Justice

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nürnberg, Germany, on 14 December 1945, 1000-1300, Lord Justice Lawrence, presiding.

DR. KAUFFMANN (Counsel for the Defendant Kaltenbrunner):

I should be so bold as to present two points to the Court. In yesterday's and today's presentation of evidence in that section dealing with war crimes, I should like to strike from the record the affidavit of the witness Pfaffenberger. It is possible to summon this witness personally. His testimony is fragmentary in the following important points: It cannot be seen whether in many cases it is a matter of his personal observations, or of assertions from hearsay. From this it is all too easy to draw false conclusions. The witness did not say that the Lager Commandant Koch, along with his inhumane wife, were condemned to death by an SS court, and precisely for these reasons. It is not possible to communicate the complete truth of an event in that a witness can be heard later on in the trial. Until then every one, Judges, Defendants, and Prosecution, stand under the impression of such terrible testimony.

The content of this testimony is so terrible and so depressing for the human spirit, that one would like to turn one's eyes and ears away from it. In the meantime, such statements make their way through the whole press of the world. Civilization is justifiably indignant. The consequences of such premature testimony are not to be calculated. The Prosecution well recognizes the significance of this testimony, and presented the documents yesterday in court.

If it is only after months that such perverted testimony can be set aright, the previous effects of it can never be eliminated. Truth suffers and justice is endangered. According to the 19th Article in the Charter, such a condition should not have been brought about.

Secondly, I should, therefore, like to suggest at this point in

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the trial, that we do not read the testimony of witnesses who live in Germany. Their appearance here is, therefore, possible because at this point in the trial it is a question of accusations, the subject of which is even more terrible than the subject of the accusations regarding the war of aggression, because it is a question here of the terrible living and death of human beings.

At the beginning of this trial, the Court refused to hear the testimony of the witness Schuschnigg, and it is my opinion that what was valid then, should be all the more valid at this point in the trial.

I should like to emphasize my suggestion particularly as regards to the Defendant Kaltenbrunner himself. It was not until the spring of 1943 that he became Chief of the Reich Main Security Office, but according to the testimony of the Defense, many, if not all, of his signatures were forged, although the administration of the concentration camps and everything concerned with concentration camps, lay in his hands. I hope to be able to prove that. I have mentioned that in order to justify my second suggestion.

THE PRESIDENT: The Tribunal would like to hear Counsel for the Chief Prosecutor of the United States.

JUSTICE JACKSON: May it please the Tribunal, Mr. Dodd, who had charge of the matter, which is under discussion, left for the United States yesterday, and I shall have to substitute for him as best I may.

This Tribunal sits under a Charter, which recognized the impossibility of covering a decade of time, a continent of space, and a million acts, by ordinary rules of proof, and at the same time to finish this case within the lives of living men. We don't want to have a trial here, like the trial of Warren Hastings, that lasted seven years. Therefore, the Charter set up only two standards by which any evidence, I submit, may be accepted. The first is that evidence must be relevant to the issue. The second is that it must have some

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probative value. That was made mandatory upon this Tribunal in Article 19 because of the difficulty of ever trying this case, if we used the technical rules of common law proof.

One of the reasons this was a military tribunal, instead of an ordinary court of law, was in order to avoid the precedent-creating effect of what is done here on our own law, and the precedent control, which would exist if this were an ordinary judicial body.

Article 19 provides that the Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply, to the greatest possible extent, expeditious and non-technical procedure and shall admit any evidence, which it deems to have probative value. That was made mandatory, that it shall admit any evidence, which it deems to have probative value. The purpose of that provision, your Honors, I may say, was this: that the whole controversy in this case -- and we have no doubt there is room for controversy -- should be centered upon the value of evidence and not on its admissibility.

We have no jury. There is no occasion for applying jury rules. Therefore, when a piece of evidence is offered, there are two questions, which arise: Does it have probative value? If it has no probative value, then it should not encumber the records, of course. The second is, Does it have relevancy? If it hasn't, of course, it should not come in.

The evidence in question has relevance. No one questions that. No one can say that an affidavit duly sworn does not have some probative value. What probative value it has, the weight of it, should be determined on the submission of the case. That is to say, if a witness has made a statement in an affidavit, and it is denied by Mr. Kaltenbrunner, and you believe that the denial has weight and credibility, of course, the affidavit should not be considered in the final consideration of the case. But we are dealing here with events that took place over great periods of time and great distances. We are dealing with witnesses widely scattered and the situation where communications are almost at a standstill.

If this affidavit stands at the end of this case undenied, unchallenged, it is not then beyond belief that you would give it

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value and weight. An affidavit might lack credibility, such as evidence where the witness was talking of something of which he had no personal knowledge. I don't say that every affidavit that comes along has probative value just because it is sworn to. But it seems to me that if we are to make progress with this case this simple system envisioned by this Charter, which was the subject of long consideration, must be followed; that if when a piece of evidence is presented, even though it does not comply with technical rules governing judicial procedures, it is something which has probative value in the ordinary daily concerns of life, that should be admitted. If it stands undenied at the close of the case, as many of these things will, then, of course, there is no issue about it, and it saves the calling of witnesses, which will take an indefinite period of time as we have already seen. I may say that the testimony of the witness Lahousen, which took nearly two days, could have been put in, in this Court, in fifteen minutes in affidavit form, and all that was essential to it could have been placed before us; and if it were to be denied you could then have determined its weight.

We want to adhere to this Charter. I submit it is no reason for deviating from the Charter that an affidavit recites horrors. I should have thought that the world could not be more shocked by recitals of horrors in affidavits than it has been in the documents that have proceeded from sources of the enemy itself. There is no reason in that for departing from the plain principles of the Charter.

I think the question of orderly procedure and the question of time are both involved in this. I think that the Tribunal should receive affidavits and we have prepared them--we hope carefully, we hope fairly--to present a great many things that would take days and days of proof. I may say that this ruling is more important in subsequent stages of this case than it is on this particular affidavit.

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There is another reason perhaps. We have some situations in which a member of an accused organization, who is directly hostile to our position because the accusation would reach him within the accused class, has made an affidavit or affidavits, which constitute admissions against interest, but on some other issue he makes statements which we believe are untrue and incredible, and we do not wish to vouch for his general credibility by calling him as a witness, but we wish to avail ourselves of his admission. We have to make our proof largely from enemy sources. All this proof, and every witness, eight months ago were in the hands of the enemy. We have to make our proof from them. God alone knows how much proof there is in this world that we haven't been able to reach. We submit that the orderly procedure here is to abide by this Charter and admit these affidavits. If they stand unquestioned at the end of the case, there is no issue about them. If they are questioned, then the weight is a matter which you would determine on final submission.

THE PRESIDENT: Mr. Justice Jackson, I have three questions I should like to ask you. The first is: where is Pfaffenberger?

JUSTICE JACKSON: That I cannot answer at the moment, but I will get an answer as quickly as I can. It is unknown to us at the moment. If we are able to ascertain, I will inform you at the conclusion of the noon recess.

THE PRESIDENT: The second point to which I wish to draw your attention is Article 16 (e) of the Charter, which contemplates cross-examination of witnesses by the Defendants. The only point upon which it is thought that witnesses who are available should not give evidence by affidavit is because it denies to the Defense the opportunity of cross-examining them.

JUSTICE JACKSON: I think that this provision means just exactly what it says. If we call a witness, they have the right of cross-examination. If he is not called, they have the right

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to call him, if he is available, as their witness, but not, of course, the right of cross-examination. The provision itself, if your Honor notices, reads that they have the right to cross-examine any witness called by the Prosecution, but that does not abrogate or affect Article 19, that we may obtain and produce any probative evidence in such manner as will expedite the trial.

THE PRESIDENT: Then the next point to which I wish to draw your attention is Article 17 (a). As I understood it, you were arguing that it was mandatory upon the Tribunal to consider any evidence which was relevant. Therefore, I draw your attention to Article 17 (a) which gives the Tribunal the power to summon witnesses to the trial.

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JUSTICE JACKSON: That is right. I think there is no conflict in that whatever. The powers of the Tribunal to summon witnesses and to put questions to them was introduced into this Charter through the continental systems of jurisprudence. Usually there are not Tribunal witnesses in the States. Witnesses are called only by one of the parties, but it was suggested by the continental scholars that in this kind of a case, since we were utilizing a mixture of the two procedures, the Tribunal itself should have the right to do several things. One is to summon witnesses, to require their attendance, and to put questions to them. I submit that this witness, whose affidavit has been received, can be called, if we can find him, by the Tribunal and questioned.

The next provision -- and it bears on the spirit of this -- of Article 17 is the Tribunal has the right to interrogate any defendant. Of course, under our system of jurisprudence, the Tribunal would have no such right, because the defendant has the unqualified right to refrain from being a witness; but in deference again to the continental system, the Tribunal was given the right to interrogate any defendant, and his immunities, which he would have under the Constitution of the United States, if he were being tried under our system, were taken away.

I submit that the perfect consistency of those provisions empower the Tribunal on its own motion (Article 17) to summon witnesses, to supplement anything that is offered, to put any questions to witnesses, and to any defendant.

If any witness is called, the right of cross-examination cannot be denied, but that does not abrogate Article 19, which was intended to enable us to put our case before the Tribunal, so that the issue would then be drawn by the defendants, and the weight of what we offer determined on final submission.

THE PRESIDENT: Lastly, there is Article 17 (e), which I suppose, in your submission, would entitle the commission, if they thought

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right, after receiving the affidavit, to take the evidence on Pfaffenberger on commission.

JUSTICE JACKSON: Yes, I think it would, Your Honor. I may say, in reference to that section, that what perhaps would be surprising to those accustomed to our system of jurisprudence, that it was one of the most controversial issues we had in the framing of this Charter. We had in mind the authorization of what we call "Masters", to go into various localities, perhaps, and take testimony, not knowing what might be necessary; and our practice of appointing Masters in Equity to take testimony and make recommendations, was not acceptable to the continental system, and we finally compromised on this provision, which authorizes the taking of testimony by commissions. That was the extent of it.

THE PRESIDENT: Thank you.

GENERAL RUDENKO: Mr. President, I am addressing you after my colleague, Mr. Jackson, so that I could come out with my own statement, inasmuch as the Defense motion, from my standpoint, is principally wrong, and it should be objected to by the Prosecution.

I, too, take the position which was expressed here by the Chief Prosecutor of the United States, Mr. Justice Jackson. I also would like, Your Honors, to point out the following circumstances: The Defense Counsel, in his motion, put the question as to which the prosecution would refer and read to the public the documents of witnesses' testimony, testimony of those persons who live in Germany. Such a statement, from the standpoint of the Prosecution, is absolutely wrong, because inasmuch as it was known from the previous stages of the trial, we find that most of the atrocities were committed by the defendants in all parts of Europe. Therefore, it is clearly understood that those witnesses live in different parts of Europe, and the Prosecution, unavoidably, must use the testimony of those witnesses, both written and oral.

Your Honors, we enter such a stage of the trial proceedings, when we will be relating the facts of atrocities, which pertain to military war

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crimes and crimes against humanity, the scope of which was enormous; and Your Honors, we shall present, as testimony or as evidence, documents originating from the defendants themselves, and also the victims of those crimes, crimes of a warlike nature, and it would be impossible to present to the Tribunal all of those witnesses, in order that they could give their oral testimony. It is impossible, and the presenting of written affidavits is unavoidable.

Your Honors referred Mr. Jackson to Article 17, with respect to the calling of witnesses by the Tribunal. This is quite correct. Article 17 establishes this right; and the Prosecution naturally understands that the calling of witnesses to trial is unavoidable; but it is impossible to call all the witnesses, all those people who could give their testimony about those crimes which were perpetrated by the defendants. Therefore, Your Honors, once again I want to refer to Article 17 of the Charter, which provides that the Tribunal shall not be bound by rules of technical evidence. The Tribunal establishes and adopts whatever most expeditious -- and I emphasize, Your Honors, "most expeditious" -- and less

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complicated by formalities the order of procedure, and it admits any evidence which, in its opinion, has probative value. I also would ask Your Honors to consider this as a basis, and this naturally allows acceptance of such written testimony by the witnesses, which is being presented.

This is really my statement, in addition to supplementing what Mr. Justice Jackson said, and whatever he said, I fully share.

MR. ROBERTS: May it please the Tribunal, as far as the British Delegation is concerned, they desire to support what the American Chief Prosecutor has said, and we do not feel we can usefully add anything.

THE PRESIDENT: (To a member of the French Delegation, Mr. Edgar Faure) Do you wish to add anything?

MR. FAURE: Mr. President, I wish simply to inform the Court that the French Prosecution is entirely in accord with the remarks which weremade by the American Prosecutor, and by the Soviet Prosecutor.

I think, as the representative of the American Prosecution said, that it is not possible to settle the questions of evidence in this trial, solely by the practice of verbal testimony in the courtroom, or under these conditions, it might be opportune to call to the witness stand, which is obviously impossible, all the inhabitants of the territories who have been involved, and which have been occupied. The defense has every opportunity to discuss, later on, the documents which have been presented by the Prosecution, and notably, the written testimony.

THE PRESIDENT: I don't think that Counsel for Kaltenbrunner was suggesting that every witness must be called, but that witnesses who were in Germany and available should be called, and that their evidence should not be given by affidavit.

MR. FAURE: The Defense has a right to call them as witnesses if it desires to hear them.

DR. KAUFFMAN: Excuse me if I add just a few words to this important question. Those who have just spoken have said that one of the main principles of this trial is the circumstance that the trial should proceed speedily. That is also expressed in Paragraph 19 of the Charter. No one can more hope that this principle is put into execution than we Defense

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Counsel ourselves; but it is nevertheless my opinion that one principle, which is the highest that mankind knows, cannot suffer in the interests of speed, and that principle is the principle of truth; and if it were simply a possibility that an over-hasty trial might give offense to truth, then the formal methods of procedure must step into the background. There are principles in mankind that are unspoken, and that do not have to be spoken.

This spirt of truth hovers also over Paragraph 19, and is its essential content. The objections I raised to the testimony of the witness in question, seem to me so justified, that the correct principle of speed should be confronted with the principle of truth, and should withdraw in its favor. It is a question of humanity. Humanity is in question here, and we want to find the truth for our children. If such testimony remains uncontradicted for months, then a part of humanity could feel desperation, and particularly, the German folk would suffer as a consequence.

DR. BERGOLD: (Counsel for Defendant Bormann) If it please the Court, I am Dr. Bergold, Defense Counsel for Bormann.

In this debate, I should like to bring up one point. It appears important to me, because it has apparently be the source of this debate. According to our system of jurisprudence, the Prosecution has the duty, not only of producing the incriminating evidence, but also that which serves to help the defendants. I can well understand the Defense Counsel for Kaltenbrunner, because he protests if this important point is not observed.

That the German authorities objected to this inhuman SS leader and his wife, and condemned them to death, it is highly probably that the Prosecution knew of this fact, and that the horrible exhibits that were presented to us were found in the files of the German Government.

This entire debate would hot have arisen if the entire Prosecution, along with this exhibit, had made the statement that the German authorities had condemned such terrible things, and had condemned the perpetrators of them to death.

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We find ourselves here in difficulties, because in contrast to our procedure, the Prosecution in this case simply presents incriminating evidence, and on the basis of a single document or a single witness, but it does not present the exculpating evidence from the same sources. If this procedure were changed, and if the prosecution had stated that this man had been condemned to death, then, first of all, the impression about Kaltenbrunner would not have been so bad; and secondly, public opinion would have been left with a different impression. Then, presumably, in this case, my colleague, Kauffmann, could have limited himself to the request that in the further course of this trial, Kaltenbrunner would have been given the opportunity to say that he had nothing to do with it; but the terrible impression which has been left with the world and on us, would have been avoided.

THE PRESIDENT: Will you refer me to the part of the German Law to which you were referring, where you say it is the duty of the Prosecution, not only to produce evidence for the Prosecution, but also to produce evidence for the Defense.

DR. BERGOLD: That is a general principle of jurisprudence, Paragraph 161 of the Reichsstrafgesetzblatt. That is one of the basic principles of law that we have in Germany.

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THE PRESIDENT: Give me that reference again.

DR BERGOLD: Paragraph 161. This principle, according to German Law -

THE PRESIDENT: 161 of what?

DR. BERGOLD: Reichsstrafprozessordnung. The same thing is true of Austria. There is a similar paragraph in Austrian jurisprudence. This principle is supposed to permit that a defendant should have the whole truth said about him, because frequently he is not in a position to produce all the evidence in his favor. Therefore, German jurisprudence has commissioned the Prosecution also to present exculpating evidence, along with its incriminating evidence.

DR. KUBSCHOF (Counsel of Defendant von Papen): Specifically, with regards to the question of Pfaffenberger, Pfaffenberger does not concern the Defendant von Papen, since hs is not concerned in this part of the indictment. I am simply speaking here as regards the principal involved.

I believe that, practically, the effect of the opinions expressed by the Prosecution and the Defense Counsel cannot be competent. Justice Jackson agrees with us that every witness whose affidavit can be presented, be thus presented, and then be given over to the Defense, if he is obtainable. If in every case in which the Defense stands on the point that an affidavit does not adequately serve as proof, and that only first-hand evidence, such as oral testimony, should be taken, in such a case, if this point of view were taken, there would always be a double hearing of testimony, namely, first the affidavit, and secondly, the hearing and cross-examination of the witness. Thus undoubtedly would lead to a prolongation of the trial. In each of these cases, the Court would, right at the very beginning, not allow the reading of the affidavit, in order to prevent this delay. Consequently, it is probably just as pointless if the Prosecution presents affidavits of which it can be expected that the witness will later be called and heard. (At this point there was no translation of some of Dr. Kubuschof's argument).

I believe that the Prosecution does not have to be in any way concerned about this. The Defense, of course, want nothing more than what we already assume of the Prosecution, namely, a speedy but also just course of the

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trial; and it is, of course, not well if things are presented through an affidavit. The hearing of witnesses must be clarified.

THE PRESIDENT: The Tribunal will consider the objection that has been raised when the Court adjourns.

JUSTIC JACKSON: May I have one word?

THE PRESIDENT: Mr. Justice Jackson, it is unusual to hear counsel who oppose an objection for a second time.

JUSTICE JACKSON: I merely want to give you the answer to the question which you asked me as to the whereabouts of Pfaffenberger. My information is that these affidavits were taken by the American Army at the time they liberated the people in these concentration camps, at the time the films were taken, and the whole evidence available gathered. This witness was present at the concentration camp, and at that time his statements were taken. We do not know his present whereabouts, and I see no reasonable likelihood that we will be able to locate him within any short time. We will make an effort.

MR. ROBERTS: May it please the Tribunal, might I endeavor to assist? I think I have now found the German order to which the Defense Counsel referred, paragraph 161. It is, of course, an order in German. Perhaps I might hand it up, and the Court Translators will no doubt deal with the paragraph (handing up volume to the Tribunal).

JUSTICE JACKSON: I think one bit of that initial information must be furnished, in view of the statements made here that we have information that we are witholding. Kaltenbrunner has been interrogated. At no time has he made such a claim, so I am advised by our interrogators; and under the Charter, our duty is to present the case for the Prosecution. I do not, not in any purpose, serve two masters.

THE PRESIDENT: Now, I call upon Major Walsh.

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THE PRESIDENT: Major Walsh, did you give a lettering to the document books with which you are dealing?

MAJOR WALSH: I didn't understand, Your Honor.

THE PRESIDENT: Did you give a letter of the alphabet to the document books with which you were dealing?

MAJOR WALSH: Yes. If Your Honor please, it is the letter "T".

THE PRESIDENT: "T"?

MAJOR WALSH: Yes. May it please the Tribunal, during the last session the Prosecution presented briefly the preliminary steps leading to the ultimate objective of the Nazi Party and the Nazi controlled state, that is, the extermination of the Jews. Propaganda, decress, the infamous Nurnberg Laws, boycotts, registration and ghettoization were the initial measures in the program. I shall, with the Court's permission, continue with a discussion of the methods utilized for the annihilation of the Jewish people.

I would like to first discuss starvation. Policies were designed and adopted to deprive the Jews of the most elemental necessities of life. Again the Defendant Hans Frank, then Governor General of Poland, wrote in his diary that Hunger rations were introduced in the Warsaw Ghetto and, referring to the new food regulations in August 1942, he callously, and perhaps casually, noted that by these food regulations virtually condemned more than one million Jews to death. I offer in evidence that part of Document 2233E-PS, diary of Hans Frank, Conference Volume, 24 August 1942, US Exhibit 283.

THE PRESIDENT: What letter is after 2233?

MAJOR WALSH: That is 2233E-PS.

THE PRESIDENT: Thank you.

MAJOR WALSH: And I quote.

"That we sentence 1,200,000 Jews to die of hunger should be noted only marginally. It is a matter of course that should the Jews not starve to death it would we hope result in a speeding up of the anti-Jewish measures." End of quotation.

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Frank's diary is not the only guide to the deliberate policy of starvation of the Jews. They were prohibited from pursuin agricultural activities in order to cut them off from access to source of food. I offer Document 1138-PS in evidence, US Exhibit 284. I refer the Court to page 4 of the translation, marked with the Roman Numeral V, paragraphs a und b. The document is entitled "Provisional Directives on the Treatment of Jews", and it was issued bt the Reichscommissar for the Ostland I read:

"Jews must be cleaned out from the countryside. The Jews are to be removed from all trades, especially from trade with agricultural products and other foodstuffs." End of quotation.

Jews were excluded from the purchase of basic food, such as wheat products, meat, eggs and milk.

I offer in evidence Document 1347-PS, US Exhibit 285, and I quote from paragrph 2 on the first page of the translation before the Court. This ist an original decree dated 18 September 1942, from the Ministry of Agriculture. I quote:

"Jews will no longer receive the following foods, beginnung with the 42nd distribution period (19 October 1942): meat, meat products, eggs, wheat products (cake, white bread, wheat rolls, wheat flour,etc.) whole milk, fresh skimmed milk, as well as such food distributed not on food ration cards issued uniformly throughout the Reich but on local supply certificates or by special announcement of the nutrition office on extra coupons of the food cards.

"Jewish children und young people over ten years of age will receive the bread ration of the normal consumer." End of quote.

The sick, the old, and the pregnant mothers were excluded from the special food concessions allotted to non-Jews. Seizure by the State Police of food shipments to Jews from abroad was authorized, and the Jewish ration cards were distinctly marked with the word "Jew" in color across the face of the cards, so that the storekeepers could readili identify and discriminate against Jewish purchasers.

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The Czechoslovakian Government published in 1943 an official document entitled "Czechoslovakia Fights Back". I offer this book in evidence, Document 1689-PS, US Exhibit 286. To summarize the contents of page 110, it states that the Jewish food purchases were confined to certain areas and to certain days and hours. As might be expected, the period permitted for the purchases was during the time when food stocks were likely to be exhausted.

By Special Order No.44 for the Eastern Occupied Territories, dated 4 Nov. 1941, the Jews were limited to rations as low as only one-half of the lowest basic category of other people, and the Ministry of Agriculture was empowered to exclude Jews entirely or partially from obtaining food, thus exposing the Jewish community death by starvation.

I now offer in evidence L-165

THE PRESID NT:Did you read anything from 1689-PS?

M.JOR W.LSH: Just to summarize, Sir, the contents of page 110

THE PRESID NT: I see. Now you are offerin L...

M.JCR W.LSH: L-165, Your Honor, US Exhibit 287.

I refer the Court to the last half of the first paragraph of the translation. This is a press bulletin issued by the Polish Ministry of Information, dated 15 November 1942. The Polish Ministry concludes that upon the basis of the nature of the seoarate rationing and the amount of food available to Jews in

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the Warsaw and Cracow ghettos, the system was designed to bring about starvation, and from the quotation I read:

"In regard to food supplies they are brought under a completely separate system, which is obviously aimed at depriving them of the most elemental necessities of life." End of quotation.

I would now like to discuss annihilation within the ghettos. Justice Jackson in his opening address to the Tribunal made reference to Document 1061-PS "The Warsaw Ghetto is No More", marked USA Exhibit 275.

This finest example of ornate German craftsmanship, leather bound, profusely illustrated, typed on heavy bond paper, is the almost unbelievable recital of a proud accomplishment by Major General of the Police Stroop, who signed the report with a bold hand. General Stroop in this report first pays tribute to the bravery and heroism of the German forces who participated in the ruthless and merciless action against a helpless, defenseless group of Jews, numbering, to be exact, 56,065, including, of course, the infants and the women. In this document he proceeds to relate the day-by-day account of the ultimate accomplishment of his mission -- to destroy and to obliterate the Warsaw Ghetto.

According to this report, the ghetto, which was established in Warsaw in November 1940, was inhabited by about 400,000 Jews, and prior to the action for the destruction of this Ghetto, some 316,000 had already been deported. The Court will note that this report is approximately 75 pages in length, and the Prosecution believes that the contents are of such striking evidentiary value that no part should be omitted from the permanent records of the Tribunal, and that the Tribunal should consider the entire report in judging the guilt of these defendants.

The defendants were furnished with several photostatic copies of the document at least twenty days ago, and have had ample time, I am sure, to scrutinize it in detail. If the Court, in the exercise of its judgment, determines that the entire report may be accepted in toto, the Prosecution believes that the reading of a portion of the summary,

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together with brief excerpts from the daily teletype reports, will suffice for the oral record. I would like the Court to examine it, if I may, and present it to the Court, together with the duplicate original thereof, and ask that the Court rule that the entire document may be accepted.

THE PRESIDENT: Major Walsh, the Court will take that course, provided that the Prosecution supplies as soon as possible, both to the Soviet and to the French members of the Tribunal, copies in Russian and French of the whole document.

MAJOR WALSH: Yes, sir; may I consult with . . .

THE PRESIDENT: I don't say present immediately, but present as soon as possible.

MAJOR WALSH: Yes.

THE PRESIDENT: You are going to read the passages that you think necessary?

MAJOR WALSH: Yes. From page 6 of the translation before the Court of Document 1061-PS, I would like to read the boastful but nonetheless vivid account of some of this ruthless action within the Warsaw Ghetto. I quote, second paragraph, page 6:

"The resistance put up by the Jews and bandits could be broken only by relentlessly using all our forces and energy by day and night. On 23 April 1943 the Reichs Fuehrer SS issued through the Higher SS and Police Fuehrer East at Cracow his order to complete the combing out of the Warsaw Ghetto with the greatest severity and relentless tenacity. I therefore decided to destroy the entire Jewish residential area by setting every block on fire, including the blocks of residential buildings near the armament works. One concern after the other was systematically evacuated and subsequently destroyed by fire. The Jews then emerged from their hiding places and dugouts in almost every case. Not infrequently, the Jews stayed in the burning buildings until, because of the heat and the fear of being burned alive, they preferred to jump down from the upper stories after having thrown mattresses and other upholstered articles into the street from the burning buildings. With their bones broken, they still tried to crawl across the street into blocks of buildings

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which had not yet been set on fire or were only partially in flames. Often the Jews changed their hiding places during the night, by moving into the ruins of burnt out buildings, taking refuge there until they were found by our patrols. Their stay in the sewers also ceased to be pleasant after the first week. Frequently from the street, we could hear loud voices coming through the sewer shafts. Then the men of the Waffen SS, the Police, or the Wehrmacht Engineers courageously climbed down from the shafts to bring out the Jews and not infrequently they then stumbled over Jews already dead, or were shot at. It was always necessary to use smoke candles to drive out the Jews. Thus one day we opened 183 sewer entrance holes, and at a fixed time lowered smoke candles into them, with the result that the bandits fled from what they believed to be gas in the center of the former Ghetto, where they could then be pulled out of the sewer holes there. A great number of Jews who could not be counted were exterminated by blowing up sewers and dugouts.

"The longer the resistance lasted the tougher the men of the Waffen SS, Police, and Wehrmacht became. They fulfilled their duty indefatigeably in faithful comradeship, and stood together as models and examples of soldiers. Their duty hours often lasted from early morning until late at night. At night search patrols with rags wound round their feet remained at the heels of the Jews and gave them no respite. Not infrequently they caught and killed Jews who used the night hours for supplementing their stores from abandoned dugouts and for contacting neighboring groups or exchanging news with them.

"Considering that the greater part of the men of the Waffen SS had only been trained for three to four weeks before being assigned to this action, high credit should be given to the pluck, courage and devotion to duty which they showed. It must be stated that the Wehrmacht Engineers, too, executed the blowing up of dugouts, sewers and concrete buildings with indefatigeability and great devotion to duty. Officers and men of the Police, a large part of whom had already been at the front, again excelled by their dashing spirit.

"Only through the continuous and untiring work of all involved did we succeed in catching a total of 56,065 Jews whose extermination can

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be proved. To this should be added the number of Jews who lost their lives in explosions or fires, but whose number could not be ascertained.

THE PRESIDENT: Major Walsh, in the section that you are just upon now, oughtn't you to read the opening paragraphs of this document, which set out the amount of the losses of the German troops?

MAJOR WALSH: I will do so, sir. On page 1 of the translation, I quote. The title: "There is no Jewish Ghetto in Warsaw Anymore."

"For the Fuehrer and their country the following fell in the battle for the destruction of Jews and bandits in the former ghetto of Warsaw." Fifteen names are thereafter listed.

"Furthermore, the Polish Police Sergeant Julian Zielinski, born 13 November 1891, 8th Commissariat, fell on 19 April 1943 while fulfilling his duty. They gave their utmost, their life. We shall never forget them.

"The following were wounded: " Then follows the names of 60 Waffen SS personnel; 11 watchmen from training camps, probably Lithuanians; 12 Security

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Police Officers in SS units; 5 men of the Polish Police; and 2 regular army personnel, engineers.

Permit me to read some brief excerpts of the daily teletype reports. Page 13 of the translation, from the teletype message of 22 April 1943, I read:

"Our setting the block on fire achieved the result in the course of the night that those Jews whom we had not been able to find despite all our search operations left their hideouts under the roofs, in the cellars, and elsewhere, and appeared on the outside of the buildings, trying to escape the flames. Masses of them - entire families - were already aflame and jumped from the windows or endeavored to let themselves down by means of sheets tied together or the like. Steps had been taken so that these Jews as well as the remaining ones were liquidated at once."

And from page 28 of the translation, the last part of the first paragraph, I read:

"When the blocks of buildings mentioned above were destroyed, 120 Jews were caught and numerous Jews were destroyed when they jumped from the attics to the inner courtyards, trying to escape the flames. Many more Jews perished in the flames or were destroyed when the dugouts and sewer entrances were blown up."

And on page 30, second half of the second paragraph, I read:

"Not until the blocks of buildings were well aflame and were about to collapse did a further considerable number of Jews emerge, forced to do so by the flames and the smoke. Time and again the Jews try to escape even through burning buildings. Innumerable Jews whom we saw on the roofs during the conflagration perished in the flames. Others emerged from the upper stories in the last possible moment and were only able to escape death from the flames by jumping down. Today we caught a total of 2,283 Jews, of whom 204 were shot, and innumerable Jews were destroyed in dugouts and in the flames."

And from page 34, the second paragraph, I read, beginning the second line:

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line:

"The Jews testify that they emerge at night to get fresh air, since it is unbearable to stay permanently within the dugouts owing to the long duration of the operation. On the average the raiding parties shoot 30 to 50 Jews each night. From these statements it was to be inferred that a considerable number of Jews are still underground in the Ghetto. Today we blew up a concrete building which we had not been able to destroy by fire. In this operation we learned that the blowing up of a building is a very lengthy process and takes an enormous amount of explosives. The best and only method for destroying the Jews therefore still remains the setting of fires".

And from page 35, the last part of the second paragraph, I read:

"Some depositions speak of three to four thousand Jews who still remain in underground holes, sewers, and dugouts. The undersigned is resolved not to terminate the large-scale operation until the last Jew has been destroyed."

And from the teletype message of 15 May 1945, on page 44, we gather that the operation is in its last stage. I read the end of the first paragraph on page 44:

"A special unit once more searched the last block of buildings which was still intact in the Ghetto, and subsequently destroyed it. In the evening the chapel, mortuary, and all other buildings in the Jewish cemetery were blown up or destroyed by fire."

On 24 May 1943, the final figures have been compiled by Major General Stroop. He reports on page 45, last paragraph:

"Of the total of 56,065 caught, about 7,000 were destroyed in the former Ghetto during large-scale operation. 6, 929 Jews were destroyed by transporting them to T.II:" - which we believe to be Treblinka. Camp No. 2, which will later be referred to - "the sum total of Jews destroyed is therefore 13,929. Beyond the number of 56,065 an estimated number of 5 to 6,000 Jews were destroyed by being blown up or by perishing in the flames."

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The Court has noted within the report 1061-PS a number of photographs, and with the Court's permission I should like to show a few of these photographs, still pictures, on the screen, unless the Court believes that reference to the original text will be sufficient for the Court's purpose.

THE PRESIDENT: No: If you want to put them on the screen you may do so. Perhaps it would be convenient to adjourn now and you can put them on the screen afterwards.

(A recess was taken from 1130 to 1140 hours).

This first picture (pointing to a picture on the screen) is shown on page twenty-seven of the photographs in Exhibit 1061-PS. It is entitled, "The Destruction of a Block of Buildings." The Court will recall those portions of the teletype messages that referred to the setting of fires for the purpose of driving out the Jews. This picture, taken from the record, portrays such a scene.

This picture (pointing to a picture on the screen) is from page twenty-one contained in the exhibit, and the caption is, "Smoking out of the Jews and Bandits." Excerpts from the teletype messages read in the record relate to the use of smoke as a means of forcing Jews out of the hiding places.

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Excerpts from the teletype messages read into the record relate to the use of smoke as a means of forcing the Jews out of their hiding places.

This picture (pointing to a picture on the screen) is from page 36 of the photographs in the exhibit and it is called "Fighting a Nest of Resistance." It is obviously a picture of an explosive blast being used to destroy one of the buildings, and the Court may recall the message of 7 May 1943 that related to the blowing up of buildings as a lengthy process requiring an enormous amount of explosive. The same message reported that the best method of destroying the Jews was the setting of fires.

This picture (pointing to a picture on the screen) is taken from page 36 of the photographs. The Court's attention is invited to the figure of a man in mid-air who appears in the picture about halfway between the center and the upper right-hand corner. He has jumped from one of the upper floors of the burning building. A close examination of this picture by the Court in the original photograph will disclose other figures in the upper floor windows, who apparently are about to follow him. The teletype message of 22 April reported that entire families jumped from burning buildings and were liquidated at once.

This picture (pointing to a picture on the screen) is from page 39 of the photographs. It is entitled "The Leader of the Large-Scale Action." The Nazi-appointed leader of this action was S.S. Major General Strupp, who probably is the central figure in this picture. I cannot refrain from commenting at this point on the smiling faces of the group shown there in the midst of the violence and destruction.

THE PRESIDENT: Are you passing from that document now?

MAJOR WALSH: Yes, sir.

THE PRESIDENT: Will you tell the Tribunal where the document was found?

MAJOR WALSH: Where the document itself was found?

THE PRESIDENT: Found, yes.

MAJOR WALSH: It is a captured document, sir. The history I haven't got, but I shall be very pleased to submit the backgrcund and history to the Court at the beginning of the afternoon session, sir.

THE PRESIDENT: The Tribunal, I think, would like to know where it was

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found and to whom it was submitted.

MAJOR WAISH: I have it. I believe that is contained in the document. The teletype messages, sir, that are contained in this exhibit were all addressed to the higher S.S. and Police Fuehrer, S.S. Obergruppenfuehrer and General of the Police Kruger, or his deputy.

It was not always necessary, or perhaps desirable, to first place the Jews within the ghettos to effect elimination. In the Baltic States a more direct course of action was followed. I refer to Document L 180, now in evidence, which is U.S. Exhibit No. 276. This is a report by SS Brigade Fuehrer Stahlocker to Himmler, dated 15 October 1941, entitled "Action Group A," found in Himmler's private files. He reported that 135,567 persons, nearly all Jews, were murdered in accordance to basic orders directing the complete annihilation of the Jews. This voluminous document provides me with the following statement by the same SS Brigade Fuehrer, and from the translation at the bottom of page 6, the second sentence of the last paragraph I read:

> "To our surprise it was not easy at first to set in motion an extensive pogrom against the Jews. KLIMATIS, the leader of the partisan unit, mentioned above, who was used for this purpose primarily, succeeded in starting a pogrom on the basis of advice given to him by a small advanced detachment acting in Kowno and in such a way that no German order or German instigationwas noticed from the outside. During the first pogrom in the night from 25 to 26 June the Lithouanian partisans did away with more then 1,500 Jews, setting fire to several Synagogues or destroying them by other means and burning down a Jewish dwelling district consisting of about 60 houses. During the following nights about 2,300 Jews were made harmless in a similar way...."

From the last part of paragraph 3, page 7, I read:

> "It was possible, though, through similar influences on the Latvian auxiliary to set in motion a pogrom against the Jews also in Riga. During this pogrom all synagogues were destroyed and about 400 Jews were killed."

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Nazi ingenuity reached a new high mark with the construction and operation of the gas van as a means of mass annihilation of the Jews. A description of these vehicles of horror and death and the operation of them is fully set forth in captured top secret document dated 16 May 1942, addressed to SS Obersturmbannfuehrer RAUFF, 8 Prince Albrecht-strasse, Berlin, from Dr. Becker, SS Untersturmfuehrer. I offer this document, 501-PS, U.S. Exhibit 288. I quote:

"The overhauling of vans by groups D and C is finished. While the vans in the first series can also be put into action if the weather is not too bad, the vans of the second series (Saurer) stop completely in rainy weather. If it has rained for instance for only one half hour, the van cannot be used, because it simply skids away. It can only be used in absolutely dry weather. It is only a question now whether the van can only be used standing at the place of execution. First the van has to be brought to that place, which is possible only in good weather. The place of execution is usually 10 to 15 km away from the highway and is difficult of access because of its location; in damp or wet weather it is not accessible at all. If the persons to be executed are driven or led to that place, then they realize immediately what is going on and get restless, which

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is to be avoided as far as possible. There is only one way left; to load them at the collecting point and to drive them to the spot.

"I ordered the vans of group D to be camouflaged as house-trailers by putting one set of window shutters on each side of the small van and two on each side of the larger vans, such as one often sees on farm-houses in the country. The vans became so well-known that not only the authorities but also the civilian population called the van 'death van', as soon as one of the vehicles appeared. It is my opinion the van cannot be kept secret for any length of time, not even camouflaged."

And then I read the fourth paragraph on this page:

"Because of the rough terrain and the indescribable road and highway conditions the caulkings and rivets loosen in the course of time. I was asked if in such cases the vans should not be brought to Berlin for repairs. Transportation to Berlin would be much too expensive and would demand too much fuel. In order to save those expenses I ordered them to have smaller leaks soldered and if that should no longer be possible, to notify Berlin immediately by radio, that Pol. Nr ... is out of order. Besides that I ordered that during application of gas all the men were to be kept as far away from the vans as possible, so that they should not suffer damage to their health by the gas which eventually would escape. I should like to take this opportunity to bring the following to your attention: several commands have had the unloading after the application of gas done by their own men. I brought to the attention of the commander of these S.K. concerned the immense psychological injuries and damages to their health which that work can have for those men, even if not immediately, at least later on. The men complained to me about headaches which appeared after each unloading. Nevertheless they don't want to change the orders, because they are afraid prisoners called for that work, could use an opportune moment to flee. To protect the men from those damages, I request orders be issued accordingly.

"The application of gas usually is not undertaken correctly. In order to come to an end as fast as possible, the driver presses the accelerator to the fullest extent. By doing that the persons to be executed suffer death from suffocation and not death by dozing off as was planned. My directions now have proved that by correct adjustment of the levers death comes faster and the prisoners fall asleep peacefully. Distorted faces and excretions, such as could be seen before, are no longer noticed.

"Today I shall continue my journey to group B, where I can be reached with further news."

Signed "Doctor Becker, SS Untersturmfuehrer."

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On page three in Document 501-PS we find a letter signed by Hauptsturmfuehrer Truehe on the subject of S-vans addressed to the Reich Security Main Office, Room 2-D-3-A, Berlin, marked "Top Secret." This letter establishes that the vans were used for the annihilation of the Jews. I read this "Top Secret" message, subject: S-vans.

"A transport of Jews, which has to be treated in a special way, arrives weekly at the office of the commandant of the Security Police and the Security Service of White Ruthenia.

"The three S-vans which are there are not sufficient for that purpose. I request assignment of another S-van (five tons). At the same time I request the shipment of twenty gas hoses for the three S-vans on hand (two Diamond, one Saurer), since the ones on hand are leaky already." Signed, the Commandant of the Security Police and the Security Service, Ostland."

It would appear from the documentary evidence that a certain amount of discord existed between the officials of the German Government as to the proper means and methods used in connection with the program of extermination. A secret report dated 18 June 1943, addressed to Defendant Rosenberg, complained that five thousand Jews killed by the police and SS might have been used for forced labor, and chided them for failing to bury the bodies of those liquidated. I offer in evidence this file, Document No. R-135, U.S. Exhibit 289--

THE PRESIDENT: Is it in these volumes, sir?

MAJOR WALSH: I think, sir, that will be found in the assembly of the document books in our case that has been placed in front of R-124.

THE PRESIDENT: Yes, Major.

MAJOR WALSH: I quote from the letter referred to addressed to the Reich Minister for the Occupied Eastern Territories, the first paragraph of the translation.

"The fact that Jews receive special treatment requires no further discussion. However, it appears hardly believable that this is done in the way described in the report of the General Commissioner of 1 June 1943. What is Katyn against that? Imagine only that these occurrences would become known to the other side and exploited by them! Most likely such propaganda would

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have no effect only because people who hear and read about it simply would not be ready to believe it."

The last part of paragraph three on this page reads:

"To lock men, women, and children into barns and to set fire to them does not appear to be a suitable method of combatting bands, even if it is desired to exterminate the population. This method is not worthy of the German cause and hurts our reputation severely."

Gunther, the prison warden at Minsk, in a letter dated 31 May 1943, addressed to the General Commissioner for White Ruthenia, subject: "Action Against Jews," was critical by implication. With the Court's permission I would like to read this entire letter, part of Document R-135, page five, subject: Action Against Jews.

"On 13 April 1943 the former German dentist Ernst Israel Tichauer and his wife, Elisa Sara Tichauer, nee Rosenthal, were committed to the court prison by the Security Service. Since that time all German and Russian Jews who were turned over to us had their golden bridgework, crowns, and fillings pulled or broken out. This happens always one to two hours before the respective action.

"Since 13 April 1943, 516 German and Russian Jews have been finished off. On the basis of a definite investigation gold was taken only in two actions,--on 14 April 1943 from 172, and on 27 April 1943 from 164 Jews. About fifty percent of the Jews had gold teeth, bridgwork, or fillings. Hauptscharfuehrer Rube of the Security Service was always personally present, and he took the gold along, too.

"Before 13 April 1943 this was not done. Signed Gunther, Prison Warden."

This letter was forwarded to the Defendant Rosenberg as Reich Minister for the Occupied Eastern Territories on June 1943. I will read the covering letter, part of Document R-135, page four, to the Reich Minister of the Occupied Eastern Territories, Berlin, through the Reich Commissioner for the Eastland, Riga. Subject: Actions Against Jews in the Prison of Minsk.

"The enclosed official report from the warden of the prison in Minsk is submitted to the Reich Minister and the Reich Commissar for Information. Signed The General Commissar in Minsk.

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THE PRESIDENT: Does "Respective Action", as indicated in letter dated the 31st of May, 1943, mean execution?

MAJOR WALSH: Yes, sir; we interpret it as such. The Court will recall that the ridding of the Jews via gas vans ties in very closely with the second letter of the transport of Jews arriving for that purpose.

THE PRESIDENT: Was this document found in Rosenberg's file?

MAJOR WALSH: I am so informed, sir. A further complaint is contained in a secret letter addressed to the General of the Infantry, Thomas, Chief of the Industrial Armament Department, dated 2 December 1941. It might be noted with interest that the apprehensive writer of this letter stated that he did not forward the communication through official channels. I offer in evidence captured document 3257-PS, and I quote from the first paragraph through--this is U.S. Exhibit 290.

"For the personal information of the Chief of the Industrial Armament Department I am forwarding a total account of the present situation in the Reichskommissariat Ukraine in which the difficulties and tensions encountered so far and the problems which give rise to serious anxiety are stated with unmistakable clarity.

"Intentionally I have desisted from submitting such a report through official channels or to make it known to other departments interested in it because I do not expect any results that way, but to the contrary am apprehensive that the difficulties and tensions and also the divergent opinions might only be increased due to the peculiarity of the situation.

"Jewish problem (paragraph seven, page one).

"Regulation of the Jewish question in the Ukraine was a difficult problem because that the Jews constituted a large part of the urban population. We therefore have to deal--just as in the General Government--with a mass problem of policy concerning the population. Many cities had a percentage of Jews exceeding fifty percent. Only the rich Jews had fled from the German troops. The majority of Jews remained under German administration. The latter found the problem more complicated through the fact that these Jews represented almost the entire trade and even a part of the manpower in small and medium industries besides the business which had in part become superfluous

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as a direct or indirect result of the war. The elimination therefore necessarily had far-reaching economic

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consequences and even direct consequences for the armament industry (production for supplying the troops)."

Paragraph one on page two:

"The attitude of the Jewish population was anxious -- obliging from the beggining. They tried to avoid everything that might displease the German administration. That they hated the German administration and army inwardly goes without saying and cannot be surprising. However, there is no proof that Jewry as a whole or even to a greater part was implicated in acts of sabotage. Surely there were some terrorists or saboteurs among them just as among the Ukrainians. But it cannot be said that the Jews as such represented a danger to the German armed forces. The output produced by Jews who, of course, were prompted by nothing but the feeling of fear, was satisfactory to the troops and the German administration.

"The Jewish population remained temporarily unmolested shortly after the fighting. Only weeks, sometimes months later, specially detached formations of the police executed a planned shooting of Jews. This action as a rule proceeded from east to west. It was done entirely in public with the use of the Ukrainian militia, and unfortunately in many instances also with members of the armed forces taking part voluntarily. The way these actions, which included men and old men, women, and children of all ages were carried out was horrible. The great masses executed make this action more gigantic than any similar measure taken so far in the Soviet Union. So far about 150,000 to 200,000 Jews may have been executed in the part of the Ukraine belonging to the Reichskommissariat; no consideration was given to the interests of economy.

"Summarizing, it can be said that the kind of solution of the Jewish problem applied in the Ukraine which obviously was based on the ideological theories as a matter of principle had the following results:

"(a) Elimination of a part of partly superfluous eaters in the cities.

"(b) Elimination of a part of the population which hated us undoubtedly.

"(c) Elimination of badly needed tradesmen who were in many instances indispensable even in the interests of the armed forces.

"(d) Consequences as to foreign policy -- propaganda which are obvious.

"(e) Bad effects on the troops which in any case get indirect contact

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with the executions.

"(f) Brutalizing effect on the formations whichcarry out the executions-- regular police."

Lest the Court be persuaded to the belief that these conditions related existed only in the East, I invite attention to the official Netherlands Government report by the Commissioner for Repatriation as indicative of the treatment of the Jews in the West.

This document is a recital of the German measures taken in the Netherlan against the Dutch Jews. The decrees, the anti-semitic demonstrations, the burning of synagogues, the purging of Jews from the economic life of their country, the food restrictions against them, forced labor, concentration camp confinement, deportation, and death,-- all follow the same pattern that was effected throughout Nazi-occupied Europe.

I now refer to Document 1726-PS, U.S. Exhibit 195, already in evidence. It is not intended to read this document in evidence, but it is deemed important to invite the Court's attention to that portion of the report relating to the deportation of Dutch Jews, shown on page five of the translation. There the Court will note that full Jews being liable to deportation number 140,000. The Court will also note that the total number of deportees was 117,000, representing more than eighty-three per cent of all the Jews in the Netherlands. Of these 115,000 were deported to Poland for slave labor, according to the Netherlands report, and after departure all trace of them was lost. Regardless of victory or defeat, to Germany the Jew was doomed. It was the expressed intent of the Nazi state that whatever the German fate might be the Jew would not survive.

I offer in evidence Document L-53, stamped "Top Secret", U.S. Exhibit 291. This message is from the Commandant of the SIPO and SD for the Radom District, addressed to SS Hauptsturmfuehrer Thiel on the subject: "Clearance of Prisons." I read the body of this message.

"I again stress the fact that the number of inmates of the SIPO and SD prisons must be kept as low as possible. In the present situation, particularly those suspects handed over by the civil police, need only be

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subjected to a short, formal interrogation, provided there are no serious grounds for suspicion. They are then to be sent by the quickest route to a concentration camp, should no court martial proceeding be necessary or should there be no question of discharge. Please keep the number of discharges very low. Should the situation at the front necessitate it, early preparations are to be made for the total clearance of prisons. Should the situation develop suddenly in such a way that it is impossible to evacuate the prisoners, the prison inmates are to be liquidated and their bodies disposed of as far as possible (burning, blowing up the building, etc). If necessary, Jews still employed in the armament industry or on other work are to be dealt with in the same way.

"The liberation of prisoners or Jews by the enemy, be it the WB or the Red Army, must be avoided under all circumstances, nor may they fall into their hands alive."

THE PRESIDENT: What is the WB?

MAJOR WALSH: I have inquired about the WB, your Honor, from several sources and have not found an understanding or a statement of it. Perhaps before the afternoon session I may be able to enlighten the Court. I have not yet been able to find out.

THE PRESIDENT: Where was the document found?

MAJOR WALSH: It is a captured document, sir.

THE PRESIDENT: Does it relate to prisoners of war, did you say?

MAJOR WALSH: No, sir; including therein, of course, prisoners of war as well as all Jews. The history of the document, sir, I will try to gather for the Court's information.

THE PRESIDENT: Yes. Did you tell us what the SIPO were?

MAJOR WALSH: Yes, sir; I furnished the Court with that; that is the Security Police, sir. This presentation, if the Court please, will be incomplete without incorporating herein reference to concentration camps insofar as they relate to the hundreds of thousands -- millions -- of Jews who died by mass shooting, gas, poison, starvation, and other means. The subject of concentration camps

H0022-0037

and all its horrors was shown to this Tribunal not only in the motion pciture film, but by the most able presentation of Mr. Dodd yesterday, and it is not intended at this time to refer to the camps only insofar as they relate to the part they played in the annihilation of the Jewish people. For example, in the camp Auschwitz, during July 1944, Jews were killed at the rate of 12,000 daily. This information is contained in document L-161, U. S. Exhibit 292. The Document L-161 is an official Polish report on Auschwitz Concentration Camp. It is dated 31 May 1945. I have taken a short excerpt from this report on the original marked --

THE PRESIDENT: I think you made a mistake, didn't you? It is not a Polish report; it is a British report.

MAJOR WALSH: I understand, sir, it was compiled originally by the Polish Government, and perhaps distributed from London.

THE PRESIDENT: I see. Very well.

MAJOR WALSH: I quote:

"During July 1944, they were being liquidated at the rate of 12,000 Hungarian Jews daily, and as the crematory could not deal with such numbers, many bodies were thrown into large pits and covered with quick lime."

I offer in evidence Document 3311-PS, U. S. Exhibit 293. This is an official Polish Government Commission report on the investigation of German crimes in Poland. The document described the concentration camp at Treblinka, and from page 1, paragraph 3 and 4, I read as follows:

"In March 1942, the Germans began to erect another camp, Treblinka B, in the neighborhood of Treblinka A, intended to become a place of torment for Jews.

"The erection of this camp was closely connected with the German plans aiming at a complete destruction of the Jewish population in Poland which necessitated the creation of a machinery by means of which the Polish Jews could be killed in large numbers. Late in April 1942, the erection of the first three chambers was finished in which these general massacres were to be performed by means of steam. Somewhat later the erection of the real death building was finished, which contains ten death chambers. It was opened for wholesale murders early in autumn 1942."

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And on page 3 of this report, beginning with the second paragraph, the Polish Commission describes graphically the procedure for the extermination within the camp:

"The average number of Jews dealt with at the camp in summer 1942 was about two railway transports daily, but there were days of much higher efficiency. From autumn 1942 this number was falling.

"After unleading in the siding all victims were assembled in one place where men were separated from women and children. In the first days of the existence of the camp the victims were made to believe that after a short stay in the camp, necessary for bathing and disinfection, they would be sent farther east, for work. Explanations of this sort were given by SS men who assisted at the unloading of the transports and further explanations could be read in notices stuck up on the walls of the barracks. But later, when more transports had to be dealt with, the Germans dropped all pretenses and only tried to accelerate the procedure.

"All victims had to strip off their clothes and shoes, which were collected afterwards, whereupon all victims, women and children first, were driven into the death chambers. Those too slow or too weak to move quickly were driven on by rifle butts, by whipping and kicking, often by Sauer himself. Many slipped and fell, the next victims pressed forward and stumbled over them. Small children were simply thrown inside. After being filled up to capacity the chambers were hermetically closed and steam was let in. In a few minutes all was over. The Jewish menial workers had to remove the bodies from the platform and to bury them in mass graves. By and by, as new transports arrived, the cemetery grew, extending in eastern direction.

"From reports received, it may be assumed that several hundred thousands of Jews have been exterminated in Treblinka."

I now offer in evidence the document identified by No. L-22, U. S. Exhibit 294. This is an official United States Government report

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issued by the Executive Office of the President of the United States, War Refugee Board, on the German camp at Auschwitz and Birkenau, dated 1944. On page 33 of this report is set forth the number of Jews gassed in Birkenau in the two-year period between April 1942 and April 1944. I have been assured that the figure printed in this report is not a typographical error. The number shown is 1,765,000.

I would now like to turn to the German bookkeeping and statistics for enlightenment on the extermination of Jews in Poland. Referring again to the diary of Hans Frank, already in evidence, Document 2233-D-PS, U.S.A. Exhibit 281, I read briefly from the beginning of the fourth paragraph on page 1:

"The Jews for us also represent extraordinarily malignant gluttons.

"We have now approximately 2,500,000 of them in the general government" -

THE PRESIDENT (Interposing): Major Walsh, you have read this already yourself.

MAJOR WALSH: Yes, sir, that is true. I just want to make reference to it again, sir, for comparison with other figures.

THE PRESIDENT: Very well.

MAJOR WALSH: " - perhaps with the Jewish mixtures, and everything that goes with it, 3,500,000 Jews."

Now this figure, if the Court please, was as of 16 December 1941. I now wish to turn to 25 January 1944, three years and one month later, and make reference to another excerpt from Frank's diary, 2233-F-PS, loose-leaf volume U.S.A. Exhibit 295. This volume covers the period from 1 January 1944 to 28 February 1944, and page 5 of the original reads:

"At the present time we still have in the General Government perhaps 100,000 Jews."

In this period of three years, according to the records of the then Governor General of Occupied Poland, between 2,400,000 and 3,400,000 Jews had been eliminated.

The Prosecution could offer this Tribunal a wealth of evidence on the

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total number of Jews who died by Nazi hands, but it is believed that cumulative evidence would not vary the guilt of these defendants.

I do wish, however, to offer one document, a statement, to establish the deaths of 4 million Jews in camps, and deaths of 2 million Jews by the State Police in the East, making a total of 6 million, Document 2738-PS. This is a statement — Adolph Eichmann, Chief of the Jewish Section of the Gestapo is the source of the figures quoted - made by Dr. Wilhelm Hoettl, Deputy Group Leader of the Foreign Section of the Security Section, AMT IV, of the RSHA. Dr. Wilhelm Hoettl, in affidavit form, made the following statement, and I quote from page 2:

"Approximately 4 million Jews had been killed in the various concentration camps, while an additional 2 million met death in other ways, the major part of which were shot by operational squads of the Security Police during the campaign against Russia."

May I, in conclusion, emphasize that the captured documents in evidence are, almost without exception, from the official sources of the -

THE PRESIDENT (Interposing): Major Walsh.

MAJOR WALSH: Yes, sir.

THE PRESIDENT: You only read that one statement, but where does the person who made the affidavit get his information from?

MAJOR WALSH: I shall be pleased to read that in there, sir. I made the statement that Eichmann was the source of the information given to Dr. Wilhelm Hoettl, one of his assistants, and on page 1 it says:

"According to my knowledge, Eichmann was at that time the leader of the Jewish Section of the Gestapo, and in addition to that he had been ordered by Himmler to get a hold of the Jews in all the European countries and to transport them to Germany. Eichmann was then very much impressed with the fact that Rumania had withdrawn from the war in those days. Moreover, he had come to me to get information about the military situation which I received daily from the Hungarian Ministry of War and from the Commander of the Waffen-SS in Hungary. He expressed his conviction that Germany had now lost the war and that he personally had no further chance. He knew that he would be considered one of the main war criminals by the

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United Nations, since he had millions of Jewish lives on his conscience. I asked him how many that was, to which he answered that although the number was a great Reich secret, he would tell me since I, as a historian, would be interested, and that he would probably not return anyhow from his command in Rumania. He had, shortly before that, made a report to Himmler, as the latter wanted to know the exact number of Jews who had been killed."

It was on the basis of this information, sir, that I read the following quotation:

THE PRESIDENT: The Tribunal will adjourn now.

(Whereupon at 1245 hours the hearing of the tribunal adjourned to reconvene at 1400 hours).

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Official Transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 14 December, 1945, 1400-1700, Lord Justice Lawrence, presiding.

THE PRESIDENT: The motion that was made this morning on behalf of the Defendant Kaltenbrunner is denied and the affidavit is admitted and will not be stricken from the record. But the Tribunal wished me to say that it is open to the Defendants' counsel, in accordance with the Charter and the Rules, to make a motion, in writing, if they wish to do so, for the attendance of Pfaffenberger for cross-examination and to state in that motion the reasons therefore.

DR. KURT KAUFFMANN (Counsel for Defendant Kaltenbrunner): I am here on a similar question. This question deals with the case of Pfaffenberger, and I beg for two reasons that the evidence of Dr. Hoettl be crossed off, that which was incorporated into the record this morning -- to have it stricken from the record, in other words.

Dr. Hoettl, as far as I know, is in Nurnberg.

THE PRESIDENT: One minute. Do you understand that the Tribunal has just denied the motion that you made this morning?

DR. KAUFFMANN: I cannot hear, your Honor.

THE PRESIDENT: I asked you whether you understood that the motion you made this morning had been denied by the Tribunal?

DR. KAUFFMANN: Yes, I understood that correctly.

THE PRESIDENT: What is your motion now?

DR. KAUFFMANN: I would like to ask to have the evidence given by Dr. Hoettl stricken from the record for this reason, and which depends on several other reasons than given to me this morning in the Pfaffenberger case.

As we can see, or as follows from the affidavit, Dr. Hoettl was interrogated on the 26th of November, that is about three weeks ago and, as I further heard, Dr. Hoettl is under arrest here in Nurnberg. There is no delay to be expected if we ask this witness be brought before the Court.

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This man had a significant position in the SS and sometime ago, in writing, I asked to have him brought in as a witness. I am convinced that he has a wealth of important evidence and material which he can reveal to the Court. The declaration of Dr. Hoettl is infinitely important. The death of millions of people is involved. His evidence is based on certain results. These things were shown to us according to hearsay and I am of the opinion that the case will look entirely different and that the Tribunal will not direct me later on, after weeks or months, to bring this witness into Court.

MAJOR WALSH: If the Court please: Dr. Hoettl's affidavit, Document 2738-PS, was in part read into the record this morning for the sole purpose of showing the approximate number of Jews, according to his estimates, that had met death at the hands of the German State. No other portion of his testimony was referred to and the evidence offered was only for the sole purpose of establishing his estimate of the number. His position in the Party and in the State, as well as the position of Adolf Eichmann, the source of his information, was also stated for the record.

I believe that Dr. Hoettl, if he is desired for any other purpose by the Defense, may be called by the Defense, but the Prosecution had no other purpose in utilizing his evidence.

THE PRESIDENT: Do you wish to add anything more?

MAJOR WALSH: That is all I have, sir.

THE PRESIDENT: The Tribunal makes the same ruling in this case as in the case of Pfaffenberger, namely that the affidavit is admitted in evidence but that it is open to Defendants' counsel to make a motion, in writing, for the attendance of the witness for cross-examination and to state in that motion the reasons for it.

MAJOR WALSH: During the morning session, the Court requested certain information concerning documents that had been offered and accepted in evidence. I refer to Document 1061, the report, "The Warsaw Ghetto Is No More." This report, I am told, was prepared for presentation at a meeting of the SS Police Leaders, to be held on 18 May, 1943. This is indicated on

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page 45 of the translation before the Court.

This document was captured by the Seventh United States Army and delivered by them to the G-2 of the United States Forces in the European Theater. In turn, they were delivered to Colonel Storey of the United States Prosecutors Staff some months ago.

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THE PRESIDENT: Major Walsh, I think the Tribunal also wished to know whether you could tell us to whom the report had been made?

MAJOR WALSH: The report, sir, according to the teletypes, the daily teletypes sir, were addressed to the higher SS and Police Fuehrer, SS Obergruppenfuehrer and General of the Police Kruger or his deputy.

THE PRESIDENT: Thank you.

MAJOR WALSH: The Court further inquired about Document L-53 and I have obtained some information concerning this document. This document was captured by T-Force of the Counter-Intelligence Corps Detachment No. 220, found among the German records at Weimar, Germany, sometime prior to 10 May, 1945.

THE PRESIDENT: L-53 you said, didn't you?

MAJOR WALSH: L-53, yes, sir.

The Court further inquired concerning this document, the meaning of the letters "W.B." I regret that I have been unable to obtain definite information as to the meaning of "W.B.", but it has been suggested to me that it might mean West-Bund or Western Ally, because it is used in connection with the capture, the destruction of all prisoners before capture by either the W.B. or the Red Armies, and I presume that it may mean West-Bund.

The slaughter of the Jews in Europe cannot be expressed in figures alone; for the impact of this slaughter is even more tragic to the future of the Jewish people and mankind. Ancient Jewish communities with their own rich, spiritual, cultural and economic life, bound up for centuries with the life of the nations in which they flourished, have been completely obliterated. The contribution of the Jewish people to civilization, the arts, the sciences, industry and culture, need not, I am sure, be elaborated upon before this Tribunal. Their destruction, carried out continuously, deliberately, intentionally and methodically by the Nazis, represents a loss to civilization of special qualities and abilities that cannot possibly be recouped.

I have not attempted to recount the multitudinous and diabolical crimes committed against the Jewish people by the State which these Defendants ruled, because, with sober regard for contemporary and historical truth, a detailed

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description of some of these crimes would transcend the utmost reaches of the human faculty of expression. The mind already recoils and shrinks from the acceptance of the incredible facts already related. Rather, it is my purpose to elucidate the pattern, the successful and successive stages, the sequence and concurrence of the crimes committed, the predetermined

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means to a preordained end.

Yet, these cold, stark, brutal facts and figures, drawn largely from the Defendants' own sources, and submitted in evidence before this Tribunal, defy rebuttal.

From conception to execution, from Party Program of 1920 to the gloating declarations of Himmler and the Defendant Frank in 1943 and 1944, the annihilation of the Jewish people in Europe was man-made - made by the very men sitting in the Defendants' box, brought to judgment before this Tribunal.

Before closing, may I acknowledge with appreciation, the untiring services of that group of the Staff of the United States Prosecution, through whose painstaking search, analysis and study, this presentation of evidence was made possible:

Captain Seymour Krieger, Lt. Brady Bryson, Lt. Frederick Felton, Sgt. Isaac Stone and Mr. Hans Nathan.

COLONEL STONEY: If the Tribunal please:

The next presentation, concerning Germanisation and spoliation in occupied countries, will be presented by Captain Sam Harris.

CAPTAIN SAM HARRIS: May the Tribunal please:

Documents relating to the Nazi program of Germanisation and Spoliation have been assembled in a document book bearing the letter "U". These document books are now being distributed for the use of the members of the Tribunal. I ask your Honors to note that the tabs on the side of the document book are numbered 1 to 30. The index sheet at the front of the book keys these numbers to the Ec and PS number of our exhibits.

For your Honor's convenience, we have also numbered the pages in each exhibit in pencil at the upper right hand corner of each exhibit.

The documents which we shall introduce were collected by Lt. Kenyon, who sits at my right, and by Doctors Darenberg and Jacoby. Without their untiring efforts, the presentation would not have been possible.

Evidence has already been introduced by Mr. Alderman, to prove that the Defendants conspired to wage aggressive war. It has also been proved that the desire for "Lebensraum" was one of the chief forces motivating

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the conspirators to plan, launch and wage their wars of aggression. We propose, at this time, to present evidence disclosing what the conspirators intended to do with conquered territories, called by them "Lebensraum", after they had succeeded in overpower the victims of their aggressions.

We have broadly divided this subject into two categories:

Germanisation and spoliation. When we speak of plans to Germanise, we mean plans to assimilate conquered territories politically, culturally, socially and economically into the German Reich. Germanisation, we shall demonstrate, meant the obliteration of the former national character of the conquered territories and the extermination of all elements which could not be reconciled with the Nazi ideology. By spoliation, we mean the plunder of public and private property, and in general, the exploitation of the people and natural resources of occupied countries.

We propose, with the permission of your Honors, to introduce, in all, 30 documents. These documents lay bare some of the secret plans of the conspirators to Germanize, to plunder, to despoil, and to destroy. They do not, of course, tell the whole story of all the conspirators' plans in this field. In some instances, proof of the plan is derived from the acts committed by the conspirators, but these few documents are particularly illuminating with respect to the conspirators' plans for Poland, Czecho-Slovakia and Russia, and they indicate the outlines of carefully conceived plans for the rest of Europe. Others who follow will fill in this outline by showing a series of outrages committed on so vast a scale that no doubts will exist that they were committed according to plan.

Poland was, in a sense, the testing ground for the conspirators' theories upon "lebensraum" and I turn to that country first.

The four western provinces of Poland were purportedly incorporated into Germany by an order of 8 October 1939. This order, which was signed by Hitler, Lammers and Defendants GOERING, FRICK and HESS, is set forth in "Reichsgesetzblatt", 1939, Part I, p. 2042, and we ask the Tribunal to take judicial notice thereof. These areas of Poland are frequently referred to in correspondence between the conspirators as "incorporated Eastern territories". The

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remainder of Poland which was seized by the Nazi invaders was established as the Government General of Poland by an order of Hitler, dated 12 October 1939. By that same order, defendant Hans FRANK was named Governor General of the newly-created Government General, and defendant SEYSS-INQUART was name Deputy Governor General. This order is set forth in "Reichs-gesetzblatt", 1939, Part I, p. 2077, and we ask the Tribunal also to take judicial notice of it.

The plans with respect to Poland were rather complicated and I believe that the significance of specific items of proof may be more readily apparent if, in advance of the introduction of documents, I am permitted briefly to indicate the broad pattern of those plans.

We submit that the documents wer are about to introduce on Poland show the following:

First: The conspirators specifically planned to exploit the people and material resources of the Government General of Poland in order to strengthen the Nazi war machine, to impoverish the Government General, and to reduce it to a vassal state. At a later stage, plans were formulated for creating islands of German settlements in the more fertile regions of the Government General in order to engulf the native Polish population and accelerate the process of Germanisation.

Second: The incorporated area of Poland which was deemed to be a part of the German Reich, was to be ruthlessly Germanised. To that end, the conspirators planned:

(a) To permit the retention of the productive facilities in the incorporated area, all of which, of course, would be dedicated to the Nazi war machine.

(b) They planned to deport to the Government General many hundreds of thousands of Jews, members of the Polish intelligentsia, and other non-compliant elements. We shall show that the Jews who were deported to the Government General were doomed to speedy annihilation. Moreover, since the conspirators felt that members of the Polish intelligentsia could not

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be Germanized and might serve as a center of resistance against their new order, they too were to be eliminated.

(c) They planned to deport all able-bodied Polish workers to Germany for work in he Nazi war machine. This served the two-fold purpose of helping to satisfy the labor requirements of the Nazi was machine and preventing the propagation of a new generation of Poles. Mr. Dodd has already produced abundant proof on this topic, and I shall do not more than refer to it.

(d) They planned to mould all persons in the incorporated area who were deemed to possess German blood, into German subjects who would religiously adhere to the principles of National Socialism. To that end, the conspirators set up an elaborate recial register. Those who resisted or refused to cooperate in this program were sent to concentration camps.

(e) They planned to bring thousands of German subjects into the incorporated area for purposes of settlement.

(f), and finally, they planned to confiscate the property - particularly the farms - of the Poles, the Jews and all dissidend elements. The confiscation of the property of Jews was part of the conspirators' larger program of extermination. Confiscation like wise served three additional purposes: (1) it provided land for the new German settlers and enabled the conspirators to reward their adherents: (2) dispossessed Polish property owners could be shipped to Germany for work in the production of implements of war; and (3) the separation of Polish farmers from their wives furthered the plan to prevent the growth of a new generation of Poles

We turn now to the specific items of proof.

I first offer in evidence Document No. EC 344-16, which is USA Exhibit No. 297. This document is a report of an interview with defendant FRANK on 3 October 1939, and was found among the files of the OKW which were assembled in bulk at the Fechanheim Document Center. This particular document was included in a large report prepared in the OKW by one Captain Varain at the direction of General Thomas, then Chief of the Military Economic Staff of the OKW. I quote from the first 19 lines of page 3 of

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the English text. The German text appears on p. 29, lines 25-36 and p. 30, lines 1-6. The report states, and I quote:

"In the first interview which the chief of the Central Division and the liaison officer between the Armament Department Upper East and the Chief Administrative Officer (subsequently called Govenor General) had with Minister FRANK on October 3, 1939 in Posen, FRANK explained the directive, and the economic and political responsibilities which had been conferred upon him by the Fuehrer and according to which he intended to administer Poland. According to these directives, Poland can only be administered by utilizing the country through means of ruthless exploitation, deportation of all supplies, raw materials, machines, factory installations, etc., which are important for the German war economy, availability of all workers for work within Germany, reduction of the entire Polish economy to absolute minimum necessary for bare existence of the population, closing of all educational institutions, especially technical schools and colleges in order to prevent the growth of the new Polish intelligentsia. "Poland", defendant FRANK stated, (and this is a quotation), "Poland" shall be treated as a colony; the Poles shall be the slaves of the Greater German World Empire!".

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I should like also to quote from the last 6 lines of the English text. In the German text, it is lines 18 to 23 of page 30.

Defendant Frank further stated, and I quote:

"By destroying Polish industry, its subsequent reconstruction after the war would become more difficult, if not impossible, so that Poland would be reduced to its proper position as an agrarian country which would have to depend upon Germany for importation of industrial products."

As further proof of the defendants' plan to plunder and despoil the Government General of Poland, I next offer in evidence Document No. EC 410, which is U.S.A. Exhibit No. 298. In addition to the proof of the defendants' plans to plunder and despoil the Government General, this document demonstrates the difference in treatment which the conspirators planned for the incorporated area of Poland and the Government General. It is a copy of a directive issued and signed by defendant GOERING on 19 October 1939, and was likewise found among the captured OKW files. I quote from lines 1 to 19 on page 1 of the English text. In the German text, it is all of page 1 and the first line of page 2. Defendant GOERING's directive states, and I quote:

"In the meeting of October 13th, I have given detailed instructions for the economical administration of the occupied territories. I will repeat them here in short: 1. The task for the economic treatment of the various administrative regions is different depending on whether a country is involved which will be incorporated politically into the German Reich or whether we deal with the Government General, which, in all probability, will not be made a part of Germany.

In the first mentioned territories the reconstruction and expansion of the economy, the safeguarding of all their production facilities and supplies must be aimed at, as well as a complete incorporation into the Greater German economic system at the earliest possible time. On the other hand, there must be

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removed from the territories of the Government General all raw materials, scrap materials, machines etc., which are of use for the German war economy. Enterprises which are not absolutely necessary for the meager maintenance of the naked existence of the population must be transferred to Germany, unless such transfer would require an unreasonably long period of time and would make it more practical to exploit these enterprises by giving them German orders to be executed at their present location."

Once the Government General had been stripped of its industrial potential, the defendants planned to leave the country desolate. Not even the war damage was to be repaired. This is the clear import of the documents previously introduced, and is likewise made clear by Document No. EC 411, which is U.S.A. Exhibit No. 299. I offer this document in evidence. This is a copy of an order dated 20 November 1939, by defendant HESS, in his capacity as Deputy Fuehrer. This document was also found in the captured OKW files. I quote the English and German texts in their entirety. Defendant HESS stated, and I quote:

"I hear from Party members who came from the Government General that various agencies, as, for instance, the Military Economic Staff, the Reich Ministry for Labor, etc., intend to reconstruct certain industrial enterprises in Warsaw. However, in accordance with a decision by Minister Dr. FRANK, as approved by the Fuehrer, Warsaw shall not be rebuilt nor is it the intention of the Fuehrer to rebuild or reconstruct any industry in the Government General."

Turning from the defendants' program of economic spoliation in the Government General to their program of deportation and resettlement, I next offer in evidence Document No. [illegible], which is U.S.A. Exhibit No. 300. This is a secret report prepared by the Academy of German Law in January 1940, upon plans for the mass migration of Poles and Jews from incorporated areas of Poland to the Government General, and for the forcible deportation of able-bodied Poles to Germany. This document

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was obtained from the Ministerial Collecting Settlement at Kassel, Germany. The date does not appear in the English translation, but it is clearly set forth in the cover page of the original document as January 1940. Before quoting from this document, I ask first, that the Tribunal take judicial notice of the decree of 11 July 1934, embodied in the "Reichsgesetzblatt", Part I, p. 605, 11 July 1934, which provided that the Academy of German Law would be a public corporation of the Reich under the supervision of the Reich Ministers of Justice and the Interior, and that its task would be (quote):

"To promote the reconstruction of German legal life, and to realize, in constant close collaboration with the competent legislative organizations, the National Socialist program in the entire sphere of the law."

Second, before quoting from the aforementioned report of the Academy of Law, I should like to offer in evidence Document No. 2749-PS, which is U.S.A. Exhibit No. 301. This is the title page of the publication of the Academy of German Law for 1940. It is offered for the purpose of showing that defendant FRANK was the president of the Academy of German Law during the period that the above-mentioned secret report of the Academy was made. The document specifically states, and I quote:

"Reich Minister Dr. Hans FRANK, President of the Academy for German Law: 7th year 1940."

Now, if I may ask your Honors to turn to Document No. 661-PS, I should first like to quote lines 6 to 24 of page 1 of the English text. In the German text, these extracts appear at page 6, lines 6 to 10; and line 22, page 6 to line 4, page 7. I quote:

"For the carrying out of costly and long term measures for the increase of agricultural production, the Government General can at the most absorb 1 to 1.5 million resettlers, as it is already over-populated..... By further absorption of 1.6 million resettlers, the 1925 Reich census figure of 133

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inhabitants per square kilometer would be reached, which practically because of already existing rural over-population and lack of industry would result in a double over-population.

This figure of 1.6 million will barely suffice to transfer from the Reich:

The Jews from the liberated East (over 600,000), parts of the remaining Jews, preferably the younger age groups from Germany proper, Austria, Sudetengau and the Protectorate (altogether over 1 million)".

Continuing the quotation, the report goes on with respect to transfer from the Reich, and I continue to quote:

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"The Polish intelligentsia who have been politically active in the past, and potential political leaders;

the leading economic personalities, comprising owners of large estates, industrialists and businessmen, etc.;

the peasant population, so far as it has to be removed in order to carry out by strips of German settlements the encirclement of Polish territories in the East."

Next, I quote the last paragraph on page 1 of the English text. The German text is at page 8, lines 3-10:

"In order to relieve the living space of the Poles in the Government General as well as in the liberated East, one should remove cheap labor temporarily by the hundreds of thousands, employ them for a few years in the old Reich, and thereby hamper their native biological propagation. (Their assimilation into the old Reich must be prevented)."

Finally, I quote from the last paragraph of page 2 of the English text. In the German text it is the last 5 lines of page 40:

"Strictest care is to be taken that secret circulars, memoranda and official correspondence which contain instructions detrimental to the Poles are kept steadily under lock and key so that they will not some day fill the White Books printed in Paris or the U.S.A."

Your Honors will recall, from your own experiences, the vicious propaganda campaigns conducted by Nazi Germany to discredit the Polish books when they made their appearance in countries friendly to Poland. The last paragraph from this document which I have just read gives the lie to that whole Nazi propaganda campaign.

The plans for the deportation of thousands of innocent people, which are set forth in the document from which I have just quoted, were not mere theories spun by lawyers. They represented, as the next three documents to be offered in evidence will show, a program which was in fact, ruthlessly executed.

I next offer in evidence Document No.2233-PS-G the Frank

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Diaries 1939, from 25 October to 15 December, which is U.S.A. Exhibit No.302. This document was obtained from the 7th Army Documentation Center at Heidelberg. I quote from the last paragraph of page 1, carrying over to the first two lines of page 2 of the English text. In the German text, the statements appear at page 19, lines 19 to 28. Defendant FRANK stated, and I quote:

"The Reichsfuehrer SS" -- meaning Himmler -- "wishes that all Jews be evacuated from the newly gained Reich territories. Up to February approximately 1,000,000 people are to be brought in this way into the General Government. The families of good racial extraction present in the occupied Polish territory (approximately 4,000,000 people) should be transferred into the Reich and individually housed and thereby be uprooted as a people."

I next offer in evidence Document No. EC-305, which is U.S.A. Exhibit No. 303. This exhibit is the top secret minutes of a meeting held on 12 February 1940 under the chairmanship of Defendant Goering on "questions concerning the East." The document was found in the captured OKW files. Himmler and Defendant Frank likewise were present at this meeting.

I initially quote lines 15 to 17 of page 1 of the English text. These extracts are found in the front page, lines 1 to 8 of the German text. The minutes state, and I quote:

"By way of introduction, the General Field Marshal " -- meaning Defendant Goering -- "explained that the strengthening of the war potential of the Reich must be the chief aim of all measures to be taken in the East."

I next quote the first two lines of the last paragraph on page 1 of the English text. The German text appears at page 2, lines 2 to 4.

"Agriculture:

The task consists of obtaining the greatest possible agriculture production from the new Eastern Gaus disregarding questions of ownership."

I next quote from the first sentence of the second paragraph of

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page 2 of the English text. This is at page 3, lines 22-24 of the German text.

"Special questions concerning the Government General:

The General Government will have to receive the Jews who are ordered to emigrate from Germany, and the New Eastern Gaus."

Finally, I quote paragraph numbered 2 under Roman numeral II of page 2 of the English text. These statements appear in the German text at page 4, lines 3-19.

"The following reported on the situation in the Eastern territories: "2. Reichsstatthalter Gauleiter Forster (who said, continuing the quotation) The population of the Danzig/West Prussia Gau (newly acquired territories) is 1.5 million, of whom 240,000 are Germans, 850,000 well-established Poles and 300,000 immigrant Poles, Jews and asocials (1800 Jews). 87,000 persons have been evacuated, 40,000 of these from Gotenhafen. From there, also the numerous shirkers, who are now looked after by welfare, will have to be deported to the General Government. Therefore, an evacuation of 20,000 further persons can be counted on for the current year."

Comparable reports were made by other Gauleiters at the meeting. These

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figures, it may be noted, were only as of February 1940. The forcible deportations which are reported in the exhibits from which I have just read, did not involve merely ordering the unfortunate victims to leave their homes, and to take up new residences elsewhere. These deportations were accomplished, according to plan, in an utterly brutal and inhuman manner. Document No. 1918-PS, which is USA Exhibit No. 304, affords striking proof of this fact, and I offer it in evidence. This is a speech delivered by Himmler to officers of the SS on a day commemorating the presentation of the Nazi flag. It is contained in a compilation of speeches delivered by Himmler, which was captured by counter English, French and US Army. The exact date of the speech does not appear in the exhibit, but its contents plainly show that it was delivered sometime after Poland had been overrun. I quote from the second to the eighth lines of page 1 of the English text. In the German text, this quotation appears at page 52, lines 2 to 10. In this speech Himmler said, and I quote:

"Very frequently the member of the Waffen-SS thinks about the deportation of this people here. These thoughts came to me today when watching the very difficult work out there performed by the Security Police, supported by your men, who help them a great deal. Exactly the same thing happened in Poland in weather 40 degrees below zero, where we had to haul away thousands, ten thousands, hundred thousands; where we had to have the toughness.....you should hear this but also forget it again - to shoot thousands of leading Poles -"

I repeat the latter part of the statement: " Where we had to have the toughness....you should hear this but also forget it again - to shoot thousands of leading Poles." Such Poles from the incorporated area as managed to survive the journey to the Government General could look forward, at best, to extreme hardship, and exposure to every form of degradation and brutality. Your Honors will recall Defendant Frank's statement contained in Document No. EC 344-16, now USA Exhibit No. 297, which was introduced a short while ago, that the Polish economy would be reduced to the absolute minimum necessary for the bare existence of the population.

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Your Honors will also recall defendant Goering's directive in Document No. EC 410, now USA Exhibit No. 298, also introduced a few moments ago, that all industrial enterprises in the Government General not absolutely necessary for the maintenance of the naked existence of the Polish population must be removed to Germany. A bare and naked existence, by the precepts of the conspirators, meant virtual starvation.

For the Jews who were forcibly deported to the Government General there was, of course, absolutely no hope. They were, in effect, deported to their graves. The defendant Frank, by his own admissions, had dedicated himself to their complete annihilation. I refer Your Honors to the Frank Diaries, conference volume 1941, October to December, which is Document No. 2233 PS, D, which was introduced by Major Walsh as USA Exhibit No. 281. The particular statement I want to call your attention particularly to is page 4, Document No. 2233-PS. I believe it appears at page 77, lines 9 and 10 of the German text. I quote this from the Defendant Frank's statement:

"We must annihilate the Jews, wherever we find them, and wherever it is possible."

I turn next to that aspect of the conspirators' program which involved the forcible Germanization of persons in the incorporated area who were deemed to possess German blood. I refer now again to incorporated area to persons who were deemed to possess German blood. Such persons, the evidence will show, were given the choice of the concentration camp, or submission to Germanization. Himmler was the chief executioner of this program, and initially I should like to introduce a few documents which disclose the powers bestowed upon him, and his conception of his task.

First, I offer in evidence Document No. 686-PS. This is USA Exhibit No. 305. This is a copy of a secret decree signed by Hitler and Defendants Goering and Keitel, dated 7 October 1939, entrusting Himmler with the task of executing the conspirators' Germanization program. This particular document came from the Ministerial Collection Center of Kassel, Germany. I quote from page 1, line 9 to 21 of the English text. In the German text this extract appears at page 1, lines 13 to 25. Page 1, lines 13 to 25 I quote:

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"The Reichsfuehrer SS--" that was Himmler, "has the obligation in accordance with my directives:

1. To bring back for final return into the Reich all German nationals, and racial Germans in the foreign countries.
2. To eliminate the harmful influence of such alien parts of the population, which represent a danger to the Reich, and the German folk community.
3. The forming of new German settlements by re-settling, and in particular by settling of the returning German citizens and racial Germans from abroad.

The Reichsfuhrer SS is authorized to take all necessary general and administrative measures for the execution of this obligation."

Himmler's conception of his tasks under this decree are plainly stated in the foreword which he wrote for the "Deutsche Arbeit" issue of June/July 1942. The foreword is contained in Document No. 2915-PS, now USA Exhibit No. 306. I quote from the first 4 lines of the English text. The German text appears at page 157:

"It is not our task," Himmler wrote, "To Germanize the East in the old sense, that is, to teach the people there the German language and German law, but to see to it that only people of purely German, Germanic blood live in the East." Signed "Himmler".

I next offer in evidence Document No. 2916-PS, which is USA Exhibit No. 307. This document contains various materials taken out of "Der Menscheneinsatz" 1940, a confidential publication issued by Himmler's Office for the Consolidation of German Nationhood. I quote initially from lines 7 to 11, of page 1. In the German text, these extracts appear at page 51, first four lines under the letter "D". I quote:

"The removal of foreign races from the incorporated Eastern Territories is one of the most essential goals to be accomplished in the German East. This is the chief national political task, which has to be executed in the incorporated Eastern Territories by the "Reichsfuhrer" SS, Reich Commissioner for the strengthening of the national character of the German people."

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I next quote from lines 33 to 39 of page 1 of the English text. In the German text, these extracts appear on page 52, lines 14 to 20. I quote:

"...there are the following primary reasons, which make the regaining of lost German blood an urgent necessity.

1. Prevention of a further increase of the Polish intelligentsia, through families of German descent even if they are Polonized.
2. Increase of the population by racial elements desirable for the German nation, and the acquisition of ethno biologically unobjectionable forces for the German reconstruction of agriculture and industry."

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Further light upon the goals which the conspirators had set for their Germanization program in conquered Eastern areas by a speech delivered by Himmler on 14 October 1943. This speech was published by the National Socialist Leadership, south, of OKW. The document came to us through the Document Section, 3rd U. S. Infantry Division. Excerpts from this speech are set forth in L-70, which is U.S.A. Exhibit No. 308. I quote all of the English text, and in the German text, these excerpts appear at page 23, lines 6 to 11, 12 to 15, 20 to 23, and page 30, lines 7 to 16. Himmler said, and I quote:

> "I consider that in dealing with members of a foreign country, especially some Slav nationality, we must not start from German points of view, and we must not endow these people with decent German thoughts, and logical conclusions of which they are not capable, but we must take them as they really are ...
>
> Obviously in such a mixture of peoples, there will always be some racially good types. Therefore, I think that it is our duty to take their children with us, to remove them from their environment, if necessary by robbing, or stealing them. Either we win over any good blood that we can use for ourselves and give it a place in our people, or we destroy that blood."

Continuing the German text on page 30, line 7 to 16, this continuation of the English text, I believe, continuing, Himmler stated. I quote:

> "For us the end of this war will mean an open road to the East, the creation of the Germanic Reich in this way, or that ..... the fetching home of 30 million human beings of our blood, so that still during our lifetime we shall be a people of 120 million Germanic souls. That means that we shall be the sole decisive power in Europe. That means that we shall then be able to tackle the peace, during which we shall be willing for the first twenty years to

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rebuild and spread out our villages and towns, and that we shall push the borders of our German race 500 kilometers further out to the East."

In furtherance of the unlawful plans disclosed by the last four exhibits, which have been offered in evidence, the conspirators contrived a Racial Register in the incorporated area of Poland. The Racial Register was in effect an elaborate classification of persons deemed to be of German blood, and contained provisions setting forth some of the rights, privileges and duties of the persons in each classification. Persons were classified into four groups:

(1) Germans who had actively promoted the Nazi cause.

(2) Germans who had been more or less passive in the Nazi struggle, but had retained their German nationality.

(3) Persons of German extraction who, although previously connected with the Polish nation, were willing to submit to Germanization.

(4) Persons of German descent, who had been "politically absorbed by the Polish nation", and who would be resistant to Germanization.

The Racial Register was inaugurated under a decree of 12 September 1940, issued by Himmler as Reich Commissioner for the Consolidation of German Nationhood, and it is contained in document number 2916-PS, previously introduced in evidence. It is USA Exhibit No. 307, that is 2916-PS. I quote from page 4 of the English text, lines 14 to 46. In the German text, these extracts appear at page 92, lines 29 to the end of the page, and lines 1 to 9 of page 93. I quote:

"The list of ethnic Germans will be divided into four parts (limited to inter-office use).

1. Ethnic Germans who fought actively in the ethnic struggle. Besides the membership of a German organization, every other activity in favor of the German against a foreign nationality will be considered an active manifestation.

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2. Ethnic Germans, who did not actively intervene in favor of the German nationality, but who preserved their traceable German nationality.

3. Persons of German descent, who became connected with the Polish nation in the course of the years, but have on account of their attitude, the pre-requisites to become full-fledged members of the German national community. To this group belong also persons of non-German descent who live in a people's mixed marriage with an ethnic German in which the influence of the German spouse has prevailed. Persons of Masurian, Slonzak, or upper Silesian descent who are to be recognized as ethnic Germans, usually belong to this group 3.

4. Persons of German descent, politically absorbed by the Polish nation (renegades). Persons not included on the list of ethnic Germans are Poles, or foreign nationals. Their treatment is regulated by BII.

"Members of groups 1 and 2 are ethnic Germans who will be used for the reconstruction in the East. The differentation between the groups 1 and 2 is important for the National Socialist Party; primarily only members of group 1 should be accepted in the Party according to the instructions of the deputy of the Fuehrer.

"Members of groups 3 and 4 have to be educated as full Germans, that is, have to be re-Germanized in the course of time through an intensive educational training in old Germany.

"The establishment of members of group 4 has to be based on the doctrine, that German blood must not be utilized in the interest of a foreign nation. Against those who refuse re-Germanization, Security Police measures are to be taken."

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The basic idea of creating a racial register for persons of German extraction was later carried over in a decree of 3 March 1941, signed by Himmler and theDefendants Frick and Hess. This decree is dated 4 March 1941, and is set forth in the "Reichsgesetzblatt" 1941, Part 1, page 118. We ask the Tribunal to take judicial notice thereof.

The entire apparatus of the SS was thrown behind the vigorous execution of these decrees. Proof of this fact is contained in Document No. R-112-PS, which is USA Exhibit No. 309, and I now offer it in evidence. This exhibit contains directives issued by Himmler as the Reich Commissioner for the Consolidation of German Nationhood. I quote first from the last two paragraphs of the English text of the directives, 16 February 1942, which is on page three of this exhibit. In the German text this provision appears on page one of the first decree, dated 16 February 1942, paragraph 1 and 2. The directive provided and I now quote:

> "1. Where Racial Germans have not applied for entry in the "German Ethnical List," you will instruct the subordinate agencies to turn over their names to the State Police (Superior) Office. Subsequently, you will report to me.
>
> II. The Local State Police (Superior) Office, will charge the persons whose names are turned over to them to prove within eight days that they have applied for entry in the "German Ethnical List."

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"If such proof is not submitted, the person in question is to be taken into protective custody for transfer into a concentration camp."

The measures taken against persons in the fourth category - "Polonized Germans" as the conspirators called them - were particularly harsh. These persons were resistant to Germanization, and ruthless measures calculated to break their resistance were prescribed. Where the individual's past history indicated that he could not be effectively Germanized, he was thrown into a concentration camp.

Some of these measures are set forth in sub-paragraph A of paragraph II on page 5 of Document No. R 112-PS, and I quote in full from the English text of that particular paragraph. This passage is set forth in the German text at pages 2 to 3 of the second decree dated 16 February 1942, under Roman numeral II. This is what the directive provides:

"II. The Re-Germanization of the Polonized Germans presupposes their complete separation from Polish surroundings. For that reason the persons entered in Division 4 of the German Ethnical List are to be dealt with in the following manner:

"A. They are to be re-settled in Old Reich territory.

"1. The Superior SS and Police Leaders are charged with evacuating and resettling them according to instructions which will follow later."

"2. A social persons and others who are of inferior hereditary quality will not be included in the resettlement. Their names will be turned over at once by the Higher SS and Police Fuehrer (Inspectors of Security Police and Security Service) to the competent State Police (Superior) Office. The latter will arrange for their transfer into a concentration camp.

"3. Persons with a particularly bad political record will not be included in the resettlement action. Their names will also be given by the Higher SS and Police

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Fuehrer (Inspectors of Security Police and Security Service) to the competent State Police (Superior) Office for transfer into a concentration camp.

"The wives and children of such persons are to be resettled in old Reich territory and to be included in the Germanization measures. Where the wife also has a particularly bad political record, and cannot be included in the resettlement action, her name, too, is to be turned over to the competent State Police Office with a view to imprisoning her in a concentration camp. In such cases the children are to be separated from their parents and to be dealt with according to III, paragraph 2 of this decree.

"Persons are to be considered as having a particularly bad political record who have offended the German nation to a very great degree--e.g., who participated in persecutions of Germans, or boycotts of Germans, etc."

Coincident with the program of Germanizing persons of German extraction in the incorporated areas, the conspirators, as previously indicated, undertook to settle large numbers of Germans of proven Nazi convictions in that area. This aspect of their program is clearly shown by an article by SS Obergruppenfuehrer and General of the Police, Wilhelm Koppe, who was one of Himmler's trusted agents.

Excerpts from this article are contained in Document No. 2915-PS, which was earlier introduced as USA Exhibit No. 306. I quote from the second paragraph of the English text of this exhibit. The German text appears at the third line from the bottom of page 170, going over to the first full paragraph of page 171. I now quote Koppe's statement:

"The victory of the German weapons in the East must therefore be followed by the victory of the German race over the Polish race, if the regained Eastern sphere--according to the Fuehrer's will--henceforth shall for all time remain an essential constituent part of the Greater German Reich. It is therefore of decisive importance

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to penetrate the regained German region with German farmers, laborers, civil servants, merchants, and artisans so that a living and deep-rooted bastion of German people can be formed as a protective wall against foreign infiltration, and possibly as a starting point for the racial penetration of the territories farther East."

THE PRESIDENT: We will adjourn now for ten minutes.

CAPTAIN HARRIS: Yes, sir.

(Whereupon a recess was taken from 1535 to 1600 hours.)

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CAPTAIN HARRIS: Up to this point we have been speaking of the German measures in the incorporated area. I should like now briefly to turn to the Germanization program in the Government General.

In the Government General there were relatively few persons at the outset who qualified as Germans by the conspirators' standards. Hence, little would be served by the introduction of a Racial Register, categorizing persons of German extraction on the model of the one instituted in the incorporated area, and to our knowledge no such Racial Register was prescribed in the Government General. Rather, the plan seems to have been (a) to make the Government General a colony of Germany, which--as your Honors will recall from document 3364-16 which has been introduced as USA Exhibit 297--which was the objective expressed by the Defendant Frank and (b) to create two so-called "German Island Settlements" in the productive farming areas. These Island Settlements were to be created by an influx of German persons who faithfully adhered to the principles of National Socialism.

In this connection I offer in evidence document No. [illegible]-PS. This is USA Exhibit No. 310. These are secret notes bearing the date line: Department of the Interior, Krakow, 30th March, 1942, and they concerned Himmler's statements upon the "planned Germanization" of the Government General. This document was obtained from the Third Army Intelligence Center at Freising, Germany, and I now quote from page 2 of the English text, from line 3 to the end of the report. This appears in the German text at page 2, line 21, to the end of the report. The document states, and I quote:

> "The Reischsfuehrer SS (Himmler) developed further trains of ideas to the effect that in the first five-year plan for re-settlement after the war the new German Eastern territories should first be filled; afterwards it is intended to provide at this time the Crimea and the Baltic countries with a German upper-class at least. Into the Government General perhaps further German Island Settlements should be newly transplanted from European nations. An

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> exact decision in this respect, however, has not been issued. In any case, it is wished that at first a heavy colonization along the San and the Brig be achieved so that the parts of Poland are encircled with alien populations. Hitherto, it has been always proved that this kind of encirclement leads most quickly to the desired nationalization."

In this same connection, I offer in evidence document No. 2233-PS-H. This is Defendant Frank's Diary, 1941, volume II, page 317. This is USA Exhibit No. 311. I quote from the last sentence at the bottom of our page 3 of the English text of this exhibit. In the German text this passage appears on page 317, lines 25 to 28. English text is at the bottom of page 3, the last sentence. Defendant Frank stated in this Diary, and I quote: "Thanks to the heroic courage of our soldiers, this territory has become German, and the time will come when the valley of the Vistula, from its source to its mouth at the sea, will be as German as the Valley of the Rhine."

I now turn to another phase of the program that I mentioned earlier, that is, the conspirators' plans to confiscate the property of Poles, Jews and dissident elements. As I previously mentioned, the evidence will show that these plans were designed to accomplish a number of objectives. In so far as the Jews were concerned, they were part and parcel of the conspirators' over-all program of extermination. Confiscation was also a means of providing property for German settlers and of rewarding those who had rendered faithful service to the Nazi State. This phase of their program likewise made available dispossessed Polish farmers for slave labor in Germany, and operated to further the conspirators' objective of preventing the growth of another generation of Poles.

Proof of the fact that the conspirators confiscated the property of Poles in furtherance of their Germanization and slave labor program is contained in document No. 1352-PS, previously introduced by Mr. Dodd as USA Exhibit No. 176. This exhibit contains

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a number of reports by one, Kusche, who appears to have been one of Himmler's chief deputies in Poland. Mr. Dodd quoted from one of Kusche's confidential reports, dated 22nd May, 1940, at our page 4, paragraph 5 of the English text. In the German text it is at page 9, lines 16 to 18. In this statement Kusche pointed out that it was possible, without difficulty, to confiscate small farms and that--and I now quote--"The former owners of Polish farms together with their families will be transferred to the old Reich by the employment agencies for employment as farm workers."

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I now desire to quote from another report by Kunsche contained in the same Exhibit and bearing the same date -- 22 May 1940. I think the upper right-hand corner numbers might simplify it. The report from which I now quote is marked secret and is entitled "details of the confiscation in the Bielitz country". Initially, I should like to quote from the last paragraph at the bottom of page 1 of this Exhibit. This Exhibit, you will recall, is 1352-PS, last paragraph at the bottom of page one. The German text is at page 11, paragraphs 1 and 2. Kunsche stated, and I quote:

"Some days ago the commandant of the concentration camp being built at Auschwitz spoke at Staff Leader Muller's and requested support for the carrying out of his assignments. He said that it was absolutely necessary to confiscate the agricultural enterprises within a certain area around the concentration camp, since not only the fields but also the farm houses of these border directly on the concentration camp. A local inspection held on the 21st of this month revealed the following: there is no room for doubt that agricultural enterprises bordering on the concentration camp must be confiscated at once. Further than this, the camp commandant requests that further plots of farm land be placed at his disposal, so that he can keep the prisoners busy. This too can be done without further delay since enough land can be made available for the purpose. The owners of the plots are all Poles".

I next quote from page 2, lines 22 to 31, of the English text of this same exhibit. The German text is at page 12, paragraph 2, continuing through to line 22 from the top of the page. I quote:

"I had the following discussion with the head of the labor office in Bielitz:

"The lack of agricultural laborers still exists in the old Reich. The transfer of the previous owners of the confiscated enterprises, together with their entire families to the Reich is possible without any further consideration. It is only necessary for the labor office to receive the lists of the persons in time, in order to enable it to take the necessary steps (collection of transportation, distribution over the various regions in need of such labor)".

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Finally, I quote from page 3 of this same Exhibit, lines 6 to 13 of the English text. The German text appears at page 13, the last three lines, continuing through to page 14, line 9:

"The confiscation of these Polish enterprises in Alzen will also be carried out within the next few days. The commandant of the concentration camp will furnish SS men and a truck for the execution of the action. Should it not yet be possible to take the Poles from Alzen to Auschwitz" - and Auschwitz, Your Honors will recall, is where the concentration camp was; continuing the quote - "they should be transferred to the empty castle at Zator. The liberated Polish property is to be given to the needy racial German farmers for their use."

In order to regularize the program of confiscation, Defendant Goering issued a decree on September 17, 1940. This decree appears in the "Reichsgesetzblatt", 1940, Part I, page 1270, and I ask the Tribunal to take judicial notice of it. Under Section 2 of this decree, sequestration of movable and immovable property, stores, and other intangible property interests of Jews and "persons who have fled or are not merely temporarily absent" was made mandatory. In addition, sequestration was authorized under Section 2, sub-section 2, if the property were required "for the public welfare, particularly in the interests of Reich defense or the strengthening of Germanism." By section 9 of this decree, issued by Defendant Goering, confiscation of sequestrated property was authorized "if the public welfare, particularly the defense of the Reich, or the strengthening of Germanism, so requires." However, section 1, sub-section 2, of the decree provided that property of German nationals was not subject to sequestration and confiscation; and section 13 provided that sequestration would be suspended if the owner of the property asserted that he was a German. The decree, on its face, indicates very clearly a purpose to strip Poles, Jews, and dissident elements of their property. It was, moreover, avowedly, designed to promote Germanism.

We ask the Court to take judicial notice of it. It is in the Reichsgesetzblatt.

Apparently, at one point some question arose as to whether the decree

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required that a determination be made in each case involving the property of a Pole that the property was required "for the public welfare, particularly in the interests of Reich defense or the strengthening of Germanism." The answer as supplied by the conspirators was firm and clear; In any case in which the property of a Pole is involved, the "strengthening of Germanism" required its seizure. In this connection, I offer in evidence Document No. R-92, which is US Exhibit No. 312. This document, which is dated 15 - April 1941, bears the letterhead of the Reich Leader SS, Commissioner for the Consolidation of German Nationhood, and is entitled "Instruction for internal use on the application of the law concerning property of the Poles of 17 September 1940." This document was captured by the U.S. Counter - Intelligence Branch. I quote from page 2, lines 11 to 14 of the English text. In the German text this statement appears at page 3, paragraph 2, sub-paragraph 2. I quote:

"The conditions permitting seizure according to section II, sub-section 2, are always present if the property belongs to a Pole. For the Polish real estate will be needed without exception for the consolidation of the German nationhood."

In the Government General, Defendant Frank promulgated a decree on 24 January 1940, authorizing sequestration "in connection with the performance of tasks serving the public interest", and liquidation of "anti-social or financially unremunerative concerns." The decree is embodied in the "Verordnungsblatt" of the General Government, No. 6, 27 January 1940, page 23, and we ask the Tribunal to take judicial notice of it. The undefined criteria in this decree obviously empowered Nazi officials in the Government General to engage in wholesale seizure of property. The magnitude of the conspirators' confiscation program in Poland was staggering. I ask Your Honors to turn to the chart on the 6th page of Document No. R-92, which was introduced a moment ago into evidence as US Exhibit No. 312.

This chart shows that as of 31 May 1943, the staggering total of 693,252 estates, comprising 6,097,525 hectares, had been seized, and 9,508 estates, comprising 270,446 hectares had been confiscated by the Estate Offices Danzig, West Prussia, Poznan, Zichenau, and Silesia. This, it will

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be noted, represented the seizure and confiscation of only four offices.

That, Your Honors, concludes our discussion on Poland, and I now turn to Czechoslovakia. At this point of the proceedings we shall introduce only one document upon Czechoslovakia. This one document, however, contains a startling revelation of the conspirators' plans to Germanize Bohemia and Moravia. It relates how three plans, each characterized by its severity, were discussed, and finally how the Fuehrer decided on plan (c), which involved the assimilation of about one half the Czech population by the Germans and the extermination of the other half. Moreover, the plan envisaged a large influx of Germans whose loyalty to the Fuehrer was unquestioned. I offer this document in evidence. It is document No. 862-PS, and it is U.S.A. Exhibit No. 313.

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This is a top secret report dated 15 October 1940, which was written by General Friderici, Deputy General of the Wehrmacht in Bohemia and Moravia. On the face of the document, it appears that only four copies were made. The document we offer in evidence is the original document, which was found among the captured files of the OKW. This document bears the handwritten letters "K" and "J" on the first page on the left-hand side, and I am advised that the handwriting is unquestionably that of Defendants Keitel and Jodl. I quote the document in its entirety:

"On 9 October of this year the office of the Reich protector held an official conference in which State Secretary SS Lt. General K.H. Frank spoke about the following:" -- SS Gruppenfuehrer K.H.Frank, it may be noted, was Secretary of State under Defendant Von Neurath, who at the date of this report was the Protector of Bohemia and Moravia. Continuing this quotation:

THE PRESIDENT: Who did you say Frank was?

CAPTAIN HARRIS: Frank is SS Gruppenfuehrer, and he was Secretary of State under Defendant Von Neurath. He is not the Defendant Hans Frank. At the date of this particular report Von Neurath, under whom K.H. Frank served, was the protector of Bohemia and Moravia. Continuing the quotation:

"Since creation of the Protectorate of Bohemia and Moravia, Party agencies, industrial circles, as well as agencies of the central authorities of Berlin have had difficulties about the solution of the Czech problem.

"After ample deliberation, the Reich Protector expressed his views about the various plans in a memorandum. In this way, three ways of solution were indicated:

"a) German infiltration of Moravia and reduction of the Czech nationality to a residual Bohemia. This solution is considered unsatisfactory, because the Czech problem, even if in a diminished form, will continue to exist.

"b) Many arguments can be brought up against the most radical

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solution, namely, the deportation of all the Czechs. Therefore, the memorandum comes to the conclusion that it cannot be carried out within a reasonable period of time.

"c) Assimilation of the Czechs, i.e. absorption of about half of the Czech nationality by the Germans, insofar as this is of importance by being valuable from a racial or other standpoint. This will take place, among other things, also by increasing the Arbeitseinsatz of the Czechs in the Reich territory (with the exception of the Sudeten German border district), in other words, by dispersing the closed Czech nationality.

"The other half of the Czech nationality must be deprived of its power, eliminated and shipped out of the country by all sorts of methods. This applies particularly to the racially mongoloid part and to the major part of the intellectual class. The latter can scarcely be converted ideologically and would represent a burden by constantly making claims for the leadership over the other Czech classes and thus interfering with a rapid assimilation.

"Elements which counteract the planned Germanization ought to be handled roughly and should be eliminated.

"The above development naturally presupposes an increased influx of Germans from the Reich territory into the Protectorate.

"After a discussion, the Fuehrer has chosen solution (c) (Assimilation) as a directive for the solution of the Czech problem and decided that, while keeping up the autonomy of the Protectorate on the surface, the Germanization will have to be carried out in a centralized way by the office of the Reich Protector for years to come.

"From the above no particular conclusions are drawn by the armed forces. This is the direction which has always been represented from here. In this connection, I refer to my memorandum which was sent to the Chief of the Supreme Command of the Armed Forces, dated 12 July 1939, file number 6/39, top secret, entitled: "The Czech Problem." (Attached as annex).

"The Deputy General of the Armed Forces with the Reich Protector

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in Bohemia and Moravia."

"(Signed) FRIDERICI
Infantry Lt. General."

With the permission of your Honors, I should like to comment further upon some parts of this memorandum. First, I invite your attention to solution (a). This solution would have called for German infiltration into Moravia and the forcible removal of the Czechs from that area to Bohemia. As your Honors know, Moravia lies

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between Bohemia and Slovakia. Thus, solution (a) would have involved the erection of a German state between Bohemia and Slovakia, and would have prevented effective inter-communications between the Czechs and the Slovaks. In this manner, the historic desire for unity of these two groups of peace-loving people and the continued existence of their Czechoslovakian State would have been frustrated. Solution (a), it may be noted, was rejected because the surviving Czechs, even though compressed into a "residual Bohemia" would have remained to plague the conspirators.

Solution (b), which involved the forcible deportation of all Czechs, was rejected, not because its terms were deemed too drastic but rather because a more speedy resolution of the problem was desired.

Solution (c), as shown in the exhibit, was regarded as the most desirable, and was adopted. This solution first provided for the assimilation of about one half of the Czechs. This meant 2 things: (a) enforced Germanization for those who were deemed racially qualified and (b) deportation to slave labor in Germany for others. "Increasing the Arbeitseinsatz of the Czechs in the Reich territory", as stated in the exhibits, plainly meant slave labor in Germany.

Solution (c) further provided for the elimination and deportation "by all sorts of methods" of the other half of the Czech population, particular the intellectuals and those who did not meet the racial standards of the conspirators. Intellectuals everywhere were an anathema to the Nazi conspirators, and the Czech intellectuals were no exception. Indeed, the Czech intellectuals, as the conspirators well know, had a conspicuous record of gallantry, self-sacrifice, and resistance to the Nazi ideology. They were, therefore, to be exterminated. As will be shown in other connections, that section of the top secret report which stated "elements which counteract the planned Germanization are to be handled roughly and should be eliminated" meant that intellectuals and other dissident elements were either to be thrown in concentration camps or immediately exterminated.

In short, the provisions of solution (c) were simply a practical application of the conspirators' philosophy as expressed in Himmler's speech, part of which we have quoted in L-70, already presented in evidence

as U.S.A. Exhibit No. 308. Himmler said that "Either we win over any good blood that we can use for ourselves ... or we destroy this blood."

I now turn briefly to the conspirators' program of spoliation and Germanization in the Western occupied countries. Evidence which will be presented at a later stage of this proceeding will show how the conspirators sought to Germanize the Western occupied countries; how they stripped the conquered countries in the West of food and raw materials, leaving to them scarcely enough to maintain a bare existence; how they compelled local industry and agriculture to satisfy the insatiable wants of the German civilian population and the Wehrmacht; and finally how the spoliation in the Western occupied countries was aided and abetted by (a) excessive occupation charges (b) compulsory and fraudulent clearing arrangements, and (c) confiscation of their gold and foreign exchange. The evidence concerning these matters will be presented in great detail by the Prosecutor for the Republic of France and that evidence is so overwhelming that the inference is inescapable that the conspirators' acts were committed according to plan.

However, it will not be until after the Christmas recess that the evidence concerning the execution of the conspirators' plans in the West will be presented to this Tribunal. Accordingly, by way of illustration, and for the purpose of showing in this presentation that the conspirators' plans embraced the occupied Western countries as well as the East, we offer in evidence a single exhibit on this aspect of the case, R-114, which is U.S.A. Exhibit No. 314. This document was obtained from the U.S. Counter Intelligence Branch. This exhibit consists of a memorandum dated 7 August 1942 and a memorandum dated 29 August 1942, from Himmler's personal files. The former memorandum deals with a conference of SS officers, and bears the title "General Directions for the treatment of deported Alsatians". The latter memorandum is marked secret and is entitled "Shifting of Alsatians into Germany proper". The memoranda comprising this exhibit show that plans were made and partially executed to remove all elements from Alsace which were hostile to the conspirators, and to Germanize the province. I quote from page 1, lines 21 to 31 of the English text entitled "General directions for the treatment of deported Alsatians". These extracts are contained in the German text at page 1, the last 8 lines, and page 2, lines 1 to 5. I now quote:

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"The first expulsion action was carried out in Alsace in the period from July to December 1940; in the course of it, 105,000 persons were either expelled or prevented from returning. They were in the main Jews, gypsies and other foreign racial elements, criminals, asocial and incurably insane persons, and in addition Frenchmen and Francophiles. The Patois-speaking population was combed out by this series of deportations in the same way as the other Alsatians.

Referring to the permission the Fuehrer had given him to cleanse Alsace of all foreign, sick or unreliable elements, Gauleiter Wagner has recently pointed out the political necessity of new deportations (zweiten Aussiedlungsaktien) which are to be prepared as soon as possible".

I should like your Honors to defer this presentation until Monday. Mr. Justice Jackson would like to make some remarks.

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JUSTICE JACKSON: May it please the Tribunal, I wish to bring to the attention of the Tribunal and of the defense counsel some matters concerning the case as it will take its course next week in the belief that it will result in expediting our procedure if over the weekend our program can be considered.

Mr. Harris' presentation will take a short time longer on Monday, and when it has concluded the presentation by the United States, it will have reached that part of the indictment which seeks a declaratory judgment of this Tribunal that six of the organizations named therein are criminal organizations. They effect such a finding only that they may constitute such a basis for prosecttion against individual members in other courts than this, proceedings in which every defense will be open to an accused individual, except that he may not deny the findings made by this Tribunal as to the character of the organization of which he was a member.

The United States desires to offer this evidence under conditions which will save the time of the Tribunal and advance the prosecution as rapidly as possible so that United States personnel can be released.

We also desire defendants' counsel to have before them as much as possible of our evidence against organizations before the Christmas recess so that they may use that recess time to examine it and to prepare their defenses and that we may be spared any further applications for delay for that purpose.

The substance of our proposal is that all of the utlimate questions on this branch of the case be reserved for consideration after the evidence is before the Tribunal. The real question we submit is not whether to admit the evidence. The real question is its value and its legal consequences under the provisions of this Charter. All of the evidence which we will tender will be tendered in the belief that it cannot be denied to have some probative value and, although it is relevant to the charges made in the indictment. And those are the grounds upon which the Charter authorizes a rejection of evidence.

At the time we seek no advantage from this suggestion except the advantage of time saving to the Tribunal and to ourselves to get as much

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of the case as possible in the hands of the Defendant before the Christmas recess and to argue the ultimate issues only when they can be intelligibly argued and understood on the basis of a real record instead of on assumptions and hypothetical statements of fact.

In offering this evidence as to the organizations, therefore, we propose to stipulate as follows:

Every objection of any character to any item of the evidence offered by the United States as against these organizations may be deemed to be reserved and fully available to defense counsel at any time before the close of the United States case with the same effect as if the objection had been made when the evidence was offered. All evidence on this subject shall remain subject to a continuing power of the Tribunal on motion of any counsel or on its own motion, to strike unprejudiced by the absence of objection. Every question as to the effect of the evidence shall be considered open and unprejudiced by the fact that it has been received without objection.

Now we recognize the adherent controversial character of the issues which may be raised concerning this branch of the case. What this evidence proves; what organizations it is sufficient to condemn, and how the Charter applies to it are question capable of debate, and which we are quite ready to argue when it can be done in orderly and intelligible fashion. We had expected to do it in final summation, but we will do it at any time suggested by the Tribunal, after there is a record on which to found the argument, and we are willing to do it either before or after the defendants take up the case. But we do suggest that if it is done step by step, as the evidence is produced, and on questions of admissibility it will be disorderly and time-consuming. Piecemeal argument will consume time by requiring counsel on both sides to recite evidence that is either in the case or to speculate as to evidence that is not yet in, to resort to hypothetical cases, and to do it over and over again to each separate objection. It will also be disorderly because of our plan of presentation.

Questions which relate to these organizations go to the very basis of the proposal made by President Roosevelt to the Yalta Conference, agreement upon which was the basis for this proceeding. The United States would not

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have participated in this kind of determination of question of guilt but for this or some equivalent plan of reaching thousands of others, who, if less conspicuous, are just as guilty of these crimes as the men in the dock. Because of participation in the framing of the Charter and knowledge of the problem it was designed to reach I shall expect to reach the legal issues involved in these questions.

The evidence, however, will be presented by the lawyers who have specialized in the search for and the arrangement of evidence on a particular and limited charge od indictment. Piecemeal argument, therefore

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would not be orderly and an argument which would be repetitious, imcomplete, poorly organized, and of little help to the Tribunal. The issues deserve careful prepared presentation of the contentions on both sides.

We will ask, therefore, upon these conditions, which we thing protect everybody's rights and enable the defense as well as ourselves to lay it before the Tribunal as rapidly, to make a better presentation of their questions because they will have time to prepare them, to lay before the Tribunal as rapidly as possible next week and as uninterruptedly as possible the evidence which bears upon the accusations against the organizations.

THE PRESIDENT: Justice Jackson, have you yet communicated that to the defendants' counsel in writing or not?

JUSTICE JACKSON: I have not communicated it, unless it has been sent to the information venter since noon.

THE PRESIDENT: I think, perhaps, it might be convenient that you should state what you have stated to us as to objections to the evidence in writing so they may thoroughly understand it.

JUSTICE JACKSON: I have prepared to do that and to supply sufficient copies for members of the Tribunal and for all defense counsel.

THE PRESIDENT: Yes.

DR. GEORG BOHM: I represent the members of the S.A. who are before the Tribunal. I only understood the statements made by Justice Jackson partially. As counsel I have no one who can advise me, and I cannot, under any circumstances, make statements and I cannot agree to reply to statements or speeches that I do not understand or which are presented to me in such a way so that I am not in a position to get information.

I would like to ask that care is taken that the statements made by the prosecution in the future--I would like to have these statements in German so that I can reply to the statements and speeches. I do not represent only one person in this proceeding but millions of prople, people who perhaps will make accusations against me at the completion of this proceeding. And I also have the responsibility, and the rest of my

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colleagues have the same responsibility, toward the organizations that are under discussion and, as a matter of principle, I ask that everything which is submitted in this proceeding, to, please, have it submitted in the German language because I'm not in a position from day to day to have these volumes of documents translated into German. If it is possibl to have these documents submitted to me in the original German. And this condition does not only apply to me but to a number of other colleagues. It makes it awful difficult for me and my colleagues to even follow the proceedings.

All sessions which have taken place so far, the material that has been presented so far, I could not take very much against the organizatio whichare accused, but the evidence against these organizations which is to be presented, as indicated today, I would like to ask urgently, if we are to remain as counsel for these organizations, to, please, order the proceedings in such a way so that even for technical reasons, we will be in a position to carry on the defense ina responsible manner.

THE PRESIDENT: As you know or have been told, only those parts of those documents which are read before the Tribunal are treated as being in evidence and, therefore, you hear through your earphones everything that is in evidence read to you in German. You know, also, that there are two copies of the documents in your information center which are in German. So much for that. That has been the procedure up to now.

In order to meet the legitimate wishes of German counsel, the proposal which Mr. Justice Jackson has just made is perfectly simply, as I understand it, and it is this:

That the question of the criminality of these organizations should not be argued before the evidence is put in; that the United States counsel should put in their evidence first, and that they hope to put the majority of it in evidence before the Christmas recess, but that the German counsel, defendants' counsel, shall be at liberty at any time, up to the time the United States case is finished, to make objection to

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any part of the evidence on these criminal organizations. Is that not clear?

DR. GEORG BOHM: Yes, I understand.

THE PRESIDENT: Have you any objection to that procedure?

DR. GEORG BOHM: Yes. I understand the proceedings as just now suggested but I'm of the opinion that it is hardly applicable that the two copies which are in the room downstairs, referring to these copies, I have not had the opportunity to have them presented to me. It may be that two copies are not sufficient for the purposes of twenty-five lawyers, and we are not possible to make use of them when these copies come in at 10:30 in the morning, whereas the session has already started at 10:00 in the morning, and it would not suffice, either, if these two copies for twenty-five people would be submitted only the day before because it is not possible in

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that short period of time for all of us, twenty-five of us, to be satisfied, and we, therefore, ask just how the prosecution can facilitate this matter. I don't know. But we ask to please order the proceedings in such a way so that we can have it in time and, I emphasize, in the German language to have the material and to know these things that the prosecution demands of us so that we can be in a position to have our work serve the Tribunal.

THE PRESIDENT: What you have just stated is a general objection to the procedure which has been adopted up to now and has nothing to do with the procedure which has been suggested by Mr. Justice Jackson with reference to these criminal organizations. All his suggestion was that, so far as argument on the law of the criminal issue or the criminal nature of these organizations should be postponed until the evidence was put in and that the right of counsel for the defense should be to make objection at any stage or, rather, to defer their objections until the evidence had been put in, and it was hoped that the evidence would be completed or nearly completed by the Christmas recess. What you say about the general procedure may be considered by the Tribunal.

So far as the particular question is concerned, namely, the question of the procedure suggested by Mr. Justice Jackson, have you any objection to that?

DR. GEORG BOHM: I will object only if through this proceeding--and I would like to make certain reservations--if the proceeding is handicapped in any way because we represent the interests of many, many people before the Tribunal.

THE PRESIDENT: We are aware of that fact, but that doesn't seem to be material to the question whether the legal argument should be deferred until after the evidence is presented. The fact that you have millions of people to represent has nothing to do with the question whether the legal argument shall take place before or in the middle of

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or at the end of the presentation of the evidence. What I'm asking you is: Have you any objection to the legal argument taking place at the end of the presentation of the evidence?

DR. GEORG BOHM: I have no objection against these suggestions in so far as my defense is not influenced in any way through that.

THE PRESIDENT: The Tribunal will now adjourn.

(Whereupon at 1705 hours the hearing of the Tribunal adjourned to reconvene at 1000 hours on 17 December 1945.)